

STATEMENT OF JUSTIFICATION

PRELIMINARY SUBDIVISION PLAN 4-18024

BALK HILL CENTRE

APPLICANT: BALK HILL VENTURES, LLC

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STATEMENT OF JUSTIFICATION IN SUPPORT OF PRELIMINARY SUBDIVISION
PLAN, 4-18024

APPLICANT

The Applicant for this Preliminary Subdivision Plan is Balk Hill Ventures, LLC. Balk Hill Ventures is a Maryland limited liability company formed and wholly owned by the principals of Petrie Richardson Ventures LLC ("Petrie Richardson"). Petrie Richardson was the original developer of Woodmore Towne Centre, a major mixed use commercial and residential development located contiguous to the property forming the subject matter of this application. Petrie Richardson has substantial experience both locally and nationally in the development, construction and operation of mixed use development projects. Woodmore Towne Centre is a prime example of Petrie Richardson's efforts. Woodmore Towne Centre is an approximate 274 acre project zoned M-X-T (Mixed Use Transportation Oriented). It includes a mix of commercial retail, commercial office and residential units of all types. To date, Woodmore Towne Centre has been developed with approximately 750,000 square feet of commercial retail uses, a hotel, a medical office building, and over 600 residential units. The development is ongoing.

Balk Hill Ventures is the contract purchaser of the two parcels forming the subject matter of the instant application. The property is presently owned by the Revenue Authority of Prince George's County, Maryland. ("Revenue Authority").

THE PROPERTY

Balk Hill Ventures, LLC is the assignee of a contract of sale entered into between Petrie Richardson and the Revenue Authority to acquire Parcels 1 and 2. Parcels 1 and 2 are part of a larger project known as Balk Hill, which is zoned M-X-T. Parcels 1 and 2 are presently unimproved and wooded. They comprise 8.9 and 8.6 acres respectively and are recorded among the Land Records of Prince George's County, Maryland in Plat Book REP 217, Plat No. 92. In addition to Parcels 1 and 2, Balk Hill also includes up to 393 residential uses of varying types as well as a small commercial office component within structures designed as townhomes. That portion of the development is under the ownership and project control of D.R. Horton, Inc.

DEVELOPMENT HISTORY OF BALK HILL

The Balk Hill project is zoned M-X-T. It was rezoned in 2002 pursuant to the approval by the District Council of Zoning Map Amendment Application A-9956-C. The applicant in that case was Rocky Gorge Homes. The application was approved subject to a number of conditions, all of which were accepted by Rocky Gorge. Rocky Gorge is primarily a residential home builder. However, the M-X-T Zone requires a mix of uses. A solely residential development is not authorized in the M-X-T Zone. Accordingly, the application as approved by the District Council authorized a total of 393 residential units, 20,000 square feet of retail space and 328,000 square feet of general office space.¹

The M-X-T Zone requires a multi-phased approval process. Once the basic rezoning has been approved, before development may occur an applicant must obtain approval of a

¹All of the approval orders and resolutions have been filed with this Application. The limitation on development as set forth in the original rezoning appears in Condition 5 of the District Council Order granting final conditional zoning to the Balk Hill project.

Conceptual Site Plan, a Preliminary Subdivision Plan, a Detailed Site Plan and Final Plats of Subdivision.

Conceptual Site Plan

In the case of Balk Hill, a Conceptual Site Plan was filed and processed in 2003. The original Conceptual Site Plan was assigned the application number CSP-03001. The Prince George's County Planning Board ("Planning Board") of the Maryland-National Capital Park and Planning Commission ("MNCPPC") approved the Conceptual Site Plan for Balk Hill on September 11, 2003 pursuant to the adoption of Planning Board Resolution PGCPB No. 03-176. The District Council did not elect to review the Conceptual Site Plan and therefore the Planning Board's decision became the final approval. The Conceptual Site Plan (CSP-03001) covered and included the entire 125.4 acres which were the subject of the original Balk Hill rezoning. In conformance with the rezoning, the Planning Board Resolution included the approval of 393 residential units, 20,000 square feet of commercial retail space and 328,480 square feet of "commercial" space. The commercial space was to be developed within a 20 acre employment parcel consisting of two individual lots. These lots were to be located in the northeast quadrant of the intersection of MD 202 (Landover Road) and St. Joseph's Drive. (See Planning Board Approval Resolution of CSP-03001, Page 5) The Conceptual Site Plan drawing depicted the location of these two employment development parcels, now known as Parcels 1 and 2.

Preliminary Subdivision Plan

The original Preliminary Subdivision Plan for Balk Hill was approved by the Planning Board on February 19, 2004. By that time, Rocky Gorge Homes was no longer the proposed developer. The applicant for the approved Preliminary Subdivision Plan was D.R. Horton, also a residential developer and builder. The Planning Board's approval was set forth in Resolution PGCPB No. 04-33. The transportation findings indicate that the site traffic generation was analyzed for 393 residential units, 20,000 square feet of specialty commercial retail and 328,480 square feet of general commercial retail. The commercial uses were designated to be developed on Parcels 1 and 2. It was further provided in the conditions of approval of the preliminary subdivision plan that Parcels 1 and 2 were to be conveyed to the Revenue Authority. (See Condition 1(c)(2)). Condition 17 of the Preliminary Subdivision Plan approval provided that the use of Parcels 1 and 2 should be determined at the time of approval of the Detailed Site Plan. Condition 22 provided that Parcels 1 and 2 were to be platted with the first final plats for the entire project and to be conveyed to the Revenue Authority immediately after recordation. At the time of approval of the Preliminary Subdivision Plan, Parcel 1 was indicated to comprise 8.9 acres and Parcel 2 was indicated to comprise 8.6 acres.

Detailed Site Plan

The initial Detailed Site Plan for Balk Hill (DSP-04067) was approved by the Planning Board on September 29, 2005. There have been a number of revisions to DSP-04067 but these revisions deal with the residential component of Balk Hill. The Planning Board's Resolution evidencing this approval bears the number PGCPB No. 05-202. The Detailed Site Plan referenced future commercial development to occur on Parcels 1 and 2 as comprising 20,000

square feet of commercial retail space and 325,000 +/- square feet of commercial office use.² Parcels 1 and 2 were referenced to be conveyed to the Revenue Authority. However, no details for any development on Parcels 1 or 2 were included within the approval of DSP-04067. Ultimately, the Detailed Site Plan was reviewed by the District Council and remanded to the Planning Board. Thereafter, the Planning Board reapproved DSP-04067 on June 1, 2006 as evidenced in Planning Board Resolution PGCPB No. 05-202(A). Finally, after the remand the Detailed Site Plan was reviewed and approved by the District Council on July 25, 2006. A copy of the District Council Order of Approval has been filed with this application.

Revenue Authority Ownership of Parcels 1 and 2

On June 20, 2012, D.R. Horton, Inc. conveyed Parcels 1 and 2 to the Revenue Authority of Prince George's County. The Deed was recorded in the Land Records of Prince George's County, Maryland in Liber 33973, Folio 099. The Revenue Authority never pursued any development of Parcels 1 and 2. Ultimately, the Revenue Authority determined to dispose of Parcels 1 and 2. Accordingly, on October 20, 2014 the Revenue Authority issued a Request For Qualifications ("RFQ") soliciting interested purchasers of both Parcels. Petrie Richardson was the only potential purchaser to file a response. Subsequent thereto, Petrie Richardson and the Revenue Authority entered into negotiations which led to the execution of a contract of sale.

Amendment of Zoning Conditions

Subsequent to entering into the contract of sale with the Revenue Authority, Petrie Richardson commenced its due diligence process. Petrie Richardson determined that its proposed development of Parcels 1 and 2 would include commercial retail uses and multi-family residential uses. Accordingly, due to the ambiguous wording of Condition 5, as attached to the original rezoning of the Balk Hill project, Petrie Richardson notified the Revenue Authority that Condition 5 would need to be revised in order to ensure that any uses permitted in the M-X-T Zone could be developed on Parcels 1 and 2. Petrie Richardson also requested that Condition 10 attached to the original Zoning be revised. Condition 10 required the establishment of an advisory planning committee to advise the Revenue Authority on the ultimate use and disposition of Parcels 1 and 2.

Petrie Richardson and the Revenue Authority both took part in the process to amend Conditions 5 and 10. After review by staff of MNCPPC and a hearing before the Zoning Hearing Examiner, the District Council on March 22, 2018 adopted an Ordinance of Final Conditional Zoning Approval amending both Condition 5 and Condition 10. In particular, Condition 5 was amended to provide as follows:

The development of the subject Property shall be limited to the prior M-X-T approved 393 residences plus additional permitted uses under the MXT Zone which generate no more than 1,013 am and 1,058 pm peak hour trips.

²The commercial component is referred to as both general commercial and office commercial in different approvals.

NEIGHBORHOOD AND SURROUNDING USES

Parcels 1 and 2 are located in the northeast quadrant of the intersection of MD 202 (Landover Road) and St. Joseph's Drive. Parcel 1 has frontage on St. Joseph's Drive. Parcel 2 has frontage on both St. Joseph's Drive and MD 202. Both parcels will ultimately have frontage on an extension of Ruby Lochart Boulevard which will run generally in an east/west direction and connect Lottsford Road and St. Joseph's Drive. The majority of the 393 residential units within Balk Hill have been constructed, sold and are occupied. Balk Hill is strategically located within the central portion of Prince George's County. It is proximate to the intersection of MD 202 and the Capital Beltway (I-495). Immediately west across St. Joseph's Drive is the St. Joseph's Church and Parish Center. Farther west and northwest is Woodmore Towne Centre, a mixed use commercial and residential development situated on approximately 274 acres of land zoned M-X-T. Woodmore Town Centre is approved to include up to 1,100 residential units of varying types, up to 1,000,000 square feet of commercial retail space, up to 1,000,000 square feet of commercial office space, hotel uses consisting of 360 rooms and a conference center between 6,000 and 45,000 square feet. To the south and across MD 202 is the Inglewood Business Community. It is home to a number of commercial office buildings and three hotels. Prince George's County has all of its permitting offices within Inglewood Business Community. Further, the Wayne K. Curry Administration Building has recently opened and is presently home to the offices of the Prince George's County Executive. In the near future, it is anticipated that the Prince George's County Council as well as MNCPPC will each relocate from Upper Marlboro to the Curry Administration Building. Farther to the south and across Arena Drive is a Metro Station and the Prince George's County Hospital which is currently under construction. In short, this area is quickly becoming the nerve center and development hub of Prince George's County.

DEVELOPMENT PROPOSAL

Petrie Richardson Ventures proposes to resubdivide Parcel 1 and Parcel 2. Parcel 1 is proposed to be subdivided into two lots. One lot will consist of 7.37 acres and the second lot is proposed to consist of 1.87 acres. The larger lot is proposed to ultimately be improved with multifamily residential uses. The smaller lot is proposed to be improved with commercial retail and/or commercial service uses. Parcel 2 is proposed to be divided into seven smaller lots. These lots will range in size from 0.44 acres to 3.16 acres. These lots are proposed to be improved with commercial retail and commercial service uses.

CONFORMANCE WITH THE MASTER PLAN AND GENERAL PLAN

This project is located within Planning Area 73 and is governed by the Adopted and Approved Largo Lottsford Master Plan. The Largo Lottsford Master Plan recommends employment and residential development for most of the land area covered by the entire Balk Hill development. The plan map shows the Balk Hill property with both an employment and an employment/residential striped pattern. The pattern is designated "Land Use Alternatives". Page 88 of the plan text discusses this striped land use pattern in greater detail under the heading "Development Alternatives". There, the plan notes that while this section of the Planning Area offers great opportunities for employment development, there are also limited modifications which would allow changes to land use by incorporating a residential component. The plan states that residential development will "need to be carefully incorporated into the overall development pattern". The plan proceeds to note the advantages of incorporating a residential component to take advantage of "reverse slow" road capacity and to allow for the possibility of

residents living in close proximity to places of employment. Given the above, the applicant submits that this preliminary subdivision plan, which will incorporate retail and multifamily uses, will be in conformance with the land use recommendations of the Largo Lottsford Master Plan, especially when viewed in light of the other residential uses already constructed within the Balk Hill project.

The proposed subdivision also conforms to the vision, policies and strategies contained within the General Plan, Plan Prince George's 2035. The property is designated within the "Established Communities" Growth Policy Area. The land use map found on page 101 of the General Plan recommends that the subject property be developed as "Mixed Use". The use as proposed in the Subdivision Plan is in conformance with this recommendation.

While no longer technically applicable, the property is in the Developing Tier of the 2002 General Plan. The purpose of the Developing Tier is to provide for a pattern of medium density, suburban residential development with distinct commercial centers and employment areas. The proposal being pursued by the applicant certainly is in conformance with the Developing Tier recommendations.

PRINCE GEORGE'S COUNTY 10-YEAR WATER AND SEWERAGE PLAN

The 2010 Water and Sewerage Plan designates the property in Water Category 3 and Sewer Category 3. These are both "go" categories and envision immediate development of the property with the extension of public systems. Findings to this effect were previously made given the fact that a prior Preliminary Subdivision Plan was approved for the property (4-03094) and Final Plats of Subdivision (5-07037) were recorded.

2017 APPROVED PAYWIDE GREEN INFRASTRUCTURE PLAN

The green infrastructure network includes designated areas of countywide environmental significance. It identifies significant natural resources including streams, wetlands, buffers, 100 Year flood plains, severe slopes, interior forests, colonial water bird nesting sites and unique habitats. The property is designated in the Evaluation Area Category of the Green Infrastructure Plan. However, there are no wetlands, streams or other sensitive environmental features on the property.

WOODLAND CONSERVATION ORDINANCE

A Tree Conservation Plan (TCP) is required for all land development proposals that are subject to Subtitle 25 unless exempted by Section 25-119. A TCP I (19/03/01) was approved at the time of the approval of the original Preliminary Subdivision Plan (4-03094). Additionally, a TCP II (082-05) was approved in 2006. A new TCP I has been filed for the new development being proposed by Petrie Richardson on what was Parcel 1 and Parcel 2. That TCP I is currently under review.

2009 MASTER PLAN OF TRANSFORMATION

According to the 2009 Master Plan of Transportation. Largo Road (MD 202) which abuts the southern boundary of the property is classified as an expressway with variable width right-of-

way width of (150-200 feet). St. Joseph's Drive which abuts the western boundary of the property is classified as a collector with a variable right-of-way width of (70-120 feet). Ruby Lockhart Boulevard bisects the property running in an east-west direction. It is classified as an industrial roadway with an ultimate right-of-way width of 70 feet. Right-of-way dedication was previously provided for MD 202 and St. Joseph's Drive, both of which are existing roadways built to the right-of-way width as required pursuant to final plats as approved and recorded. Ruby Lockhart Boulevard is currently being constructed between existing Parcel 1 and Parcel 2 by another developer. The required right-of-way width for the Ruby Lockhart Boulevard extension was provided.

NATURAL RESOURCES INVENTORY

A Natural Resources Inventory was filed Parcels 1 and 2 (NRI-151-2018). The NRI was approved on November 13, 2018.

NOISE

MD 202 is classified as an expressway with a Noise Impact Zone (65 dBA Ldn Noise Contour) extending approximately 373 feet from the center line of the roadway. This is based upon the Environmental Planning Section's noise model. This application proposes residential use but that proposal is for the second platted lot (Parcel 1). Any residential development will be substantially more than the Noise Impact Zone (approximately 373 feet from the center line) of MD 202. Therefore, noise impacts are not applicable.

CONFORMANCE WITH APPLICABLE PROVISIONS OF SUBTITLE 24/SUBDIVISION ORDINANCE

Analysis of the applicable provisions of the Subdivision Ordinance follows:

Section 24-121 sets forth Planning and Design Requirements. Those Requirements are:

Sec. 24-121. – Planning and design requirements.

- (a) The Planning Board shall require that proposed subdivisions conform to the following:**
 - (1) All lots shall be designed to be located wholly within the County and platted in conformance with all of the requirements of the Zoning Ordinance applicable to the subject property.**

All of the lots proposed on this plan are entirely located within Prince George's County and will also be platted in conformance with all of the requirements of the Zoning Ordinance, including specific requirements of the M-X-T Zone.

- (2) In cases where the proposed subdivision is situated in a portion of the Regional District not planned to be served by public water and/or sewerage facilities, proposed lots shall be designed to meet the minimum lot size requirements for individual systems, as contained in Subtitle 22 of this Code and in the Comprehensive Ten Year Water and Sewerage Plan.**

This provision is inapplicable as the property is in Water Category 3 and Sewer Category 3 with immediate planned service. Water and sewer lines are located in the roadways abutting the property.

- (3) When lots are proposed on land adjacent to an existing or planned roadway or arterial or higher classification, they shall be designed to front on either an interior street or a service road. As used in this Section, a planned roadway or transit right-of-way shall mean a road or right-of-way shown in a currently approved State Highway plan, General Plan, or master plan. If a service road is used, it shall connect, where feasible, with a local interior collector street with the point of intersection located at least two hundred (200) feet away from the intersection of any roadway of collector or higher classification.**

Part of the property fronts on MD 202 which is a roadway of arterial or higher classification. No lots are proposed to have access on to MD 202 and all lots abutting this roadway will front on and be accessed by an internal private service road.

- (4) Residential lots adjacent to existing or planned roadways of arterial classification shall be platted with a minimum depth of one hundred and fifty (150) feet. Residential lots adjacent to an existing or planned roadway of freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate.**

This provision is inapplicable to this subdivision as no residential lots are adjacent to existing or planned roadways of arterial classification. Multifamily residential uses are proposed but they will not be located on any lot adjacent to MD 202.

- (5) The preliminary plan and final plat shall conform to the area master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant plan recommendations no longer appropriate or the District Council has not imposed the recommended zoning. Notwithstanding any other requirement of this Section, a proposed preliminary plan or final plat of subdivision may be designed to conform with the land use policy recommendations for centers, as approved within the current County general plan, unless the District Council has not imposed the recommended zoning.**

As discussed above, the development proposed by the applicant in this case is in conformance with the Prince George's County General Plan, Plan 2035 and with the Adopted and Approved Largo Lottsford Master Plan.

- (6) When indicated by a master plan or the General Plan or when requested by a public agency, land may be placed in reservation, pursuant to Division 7 of this Subtitle.**

There are no recommendations in either the Master Plan or General Plan which would require reservation of any land area included in this Preliminary Subdivision Plan.

- (7) Provision shall be made for the eventual ownership of outlots or residue parcels by incorporating them into platted lots or into adjacent parcels or by other means deemed acceptable by the Planning Board.**

This provision is inapplicable as no residue parcels or outlots are proposed on the Plan.

- (8) Corner lots shall be rounded with a radius of not less than twenty (20) feet or provided with an equivalent truncation.**

Corner lots are proposed at the corner of St. Joseph's Drive and MD 202, St. Joseph's Drive and Ruby Lockhart Boulevard and on both the northwest and northeast sides of the intersection of St. Joseph's Drive and Ruby Lockhart Boulevard. All three of these lots are proposed to provide a radius not less than twenty feet.

- (9) Walkways, with rights-of-way not less than ten (10) feet wide, shall be provided through all blocks over seven hundred fifty (750) feet long, when deemed necessary by the Planning Board.**

No blocks over 750 feet long are being proposed. Therefore, this provision is inapplicable.

- (10) Generally, subdivisions shall be designed to avoid unnecessary and costly roads, utility extensions, grading, and energy consumption.**

This subdivision will be designed so as to avoid unnecessary and costly roads or utility extensions. MD 202 and St. Joseph's Drive presently exist. The extension of Ruby Lockhart Boulevard is currently under construction by another developer.

- 11) Significant natural features which are impossible or difficult to reproduce, such as waterways, streams, hills, wooded lands, and specimen trees, should be preserved to the degree practicable.**

There are no regulated environmental features located on this site.

- (12) Lot size averaging may be permitted for preliminary plans accepted prior to July 1, 2006 in accordance with the Zoning Ordinance when the Planning Board finds that:**

- (A) The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.**

- (B) The subdivision design provides for an adequate transition between the proposed sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.
- (C) The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of the site and any natural features of adjacent parcels.

Lot size averaging is not being proposed in this Subdivision.

- (13) Generally, lots, except at corners, should have access to only one (1) street.

Lots are proposed to have access to only one street. Several of the lots proposed to be located on what is now Parcel 2 are proposed to be served by an internal private drive which will function as a service road.

- (14) If an entrance feature or gateway sign is proposed in a residential subdivision, it shall be identified on the preliminary plan on a separate Homeowners' Association parcel, or easement located on a homeowner's lot, and be designed in accordance with the standards in Section 27-624 of the Zoning Ordinance. A Homeowners' Association or other entity or person designated in a maintenance arrangement approved by the Department of Permitting, Inspections, and Enforcement, shall be responsible for the maintenance of the entrance feature or gateway sign.

No entrance or gateway sign is being proposed.

- (15) The Planning Board shall not approve a preliminary plan of subdivision until evidence is submitted that a stormwater management concept plan has been approved by the Department of Permitting, Inspections, and Enforcement or the municipality having approval authority, unless the Planning Board finds that such approval will not affect the subdivision.

A site development concept plan has been filed and is currently under review.

- (16) Except as indicated in Section 24-132, the subdivision shall be designed and platted in accordance with the provisions for woodland conservation and tree preservation contained in Subtitle 25.

A site development concept plan has been filed and is currently under review.

- (17) Historic resources should be preserved.

No historic resources are located on the property.

- (18) **Significant archeological sites identified in accordance with the Planning Board Guidelines for Archeological Review should be preserved in place, to the extent practicable and should be interpreted as appropriate.**

It is the applicant's belief and understanding that no archeological review will be required for this Preliminary Subdivision Plan. A Historic Presubmittal Checklist was submitted by the applicant at the time of filing this Preliminary Subdivision Plan for pre-acceptance review.

- (19) **Condominium townhouse dwelling units approved after September 1, 2012 shall conform to the lot standards of this Subtitle and Subtitle 27 for possible future conversion to fee simple lots.**

No condominium townhouse units are proposed and therefore this provision is inapplicable.

Section 24-122 deals with Public Facilities requirements:

- (a) **When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.**

A public utility easement will be provided along any existing or proposed public road frontage as required.

- (b) **Land for public facilities shown on the General Plan, functional master plans and/or area master plans, and watershed plans shall be reserved, dedicated, or otherwise provided for.**

No public facilities are shown on the General Plan or on the Master Plan which impact this property. A Site Development Concept Plan has been prepared and submitted. In addition, a Stormwater Management Concept Plan has been filed (No. 56766-2018) and is currently under review. The applicant believes that appropriate measures are being proposed to handle and treat all stormwater runoff as required by applicable ordinances.

- (c) **Stormwater management facilities, existing or proposed as part of the development, shall have sufficient capacity to convey surface water runoff.**

See above response.

24-122.01. – Adequacy of public facilities.

- (a) **The Planning Board may not approve a preliminary plan of subdivision if it finds that adequate public facilities do not exist or are not programmed for the area within which the proposed subdivision is located, as defined in the "Guidelines for the Mitigation of Adequate Public Facilities" Public Safety Infrastructure" and "Guidelines for the Analysis of the Traffic Impact of**

Development Proposals.” The Planning Board shall require adequate public facilities, as provided in this Section and in Division 4 of this Subtitle.

An analysis of transportation needs in this area occurred pursuant to the provisions of the MD 202 Corridor Study and the Road Club which resulted from that study. There were over 500 acres in the study area and an overall density and overall trip cap were approved based upon providing identified major road improvements which no single project could bear financially. Prince George’s County was also to contribute to the improvements.

When Balk Hill was initially rezoned to the M-X-T Zone, a transportation adequacy finding was required pursuant to Section 27-213 of the Zoning Ordinance. The Traffic Group, as traffic engineer for the applicant at that time, filed a traffic study in 2001. The Transportation Section undertook a thorough analysis which resulted in a lengthy referral memorandum dated April 19, 2007. The referral was attached to the Staff Report in the zoning case (A-9956) and the analysis was included in the body of the staff report. The referral analyzed the 202 Corridor Study including its recommendation for road improvements. It noted that the rezoning application proposed 328,480 sq. ft. of general office, 20,000 sq. ft. of retail and 393 residences. It set out the AM and PM trips which that development would generate and the resulting number was 1,013 AM peak hour trips and 1,058 peak hour trips (see p. 12 of referral). Based upon the findings, 5 conditions were recommended. The first 4 conditions were road improvements and the 5th was a trip cap of 1,013 AM and 1,058 PM peak hour trips for the uses which the applicant proposed and which was included in proposed Condition 5 of the staff report. The conditions were incorporated into the Order approving A-9956. That Order is also attached.

When the property went through preliminary subdivision plan approval in 2004 (4-03094), another traffic study was prepared, presumably to confirm the established trip cap was not exceeded. For some reason, that study analyzed the 328,480 sq. ft. as retail and not office. This resulted in a lower AM trip generation due to the fact that retail would not generally be open for business in the AM peak hour. There were no conditions attached to the approval of 4-03094 relating to limiting trips or changing in any way the previously established trip cap.

In 2018 my client, in conjunction with the Revenue Authority (the present owner of Parcels 1 and 2), processed a revision to Condition 5 to allow 393 residential units and any other uses permitted in the M-X-T Zone provided the trip cap of 1,013 AM and 1,058 PM peak hours was not exceeded. That request was granted by the District Council and a copy is attached to this application.

Based on the above, it is the applicant’s understanding that in rezoning the property in 2002, the Council was required to find transportation adequacy. It did so and put in place a trip cap of 1,013 AM and 1,058 PM peak hour trips. That trip cap never changed when Preliminary Plan 4-03094 as approved. The trip cap remains in effect today and as long as the applicant’s proposed new development does not exceed that trip cap, no new transportation adequacy test is required.

The applicant’s transportation engineer has prepared a trip generation analysis for this Preliminary Plan which confirms that the development proposed herein does not exceed the approved trip cap.

DIVISION 4. – REQUIREMENTS: TRANSFORMATION AND CIRCULATION.

Sec. 24-123. - General requirements.

(a) The Planning Board shall require that preliminary plan conform to the following:

- (1) The rights-of-way of all highways, streets, and transit facilities shown on the General Plan, functional master plans, and area master plans shall be shown on the preliminary plan and, when reserved or dedicated, shown on the final plat.**

All rights-of-way shown on the General Plan and applicable Master Plans have been observed on the Preliminary Subdivision Plan as filed.

- (2) All proposed streets shall be continuous and in alignment with existing or platted streets in adjoining subdivisions so as to create a street network that is functional and easily understandable. Generally, streets should cross other streets at right angles.**

This subdivision is not proposing the dedication of any new public streets. All lots having direct access to a public street will access via St. Joseph's Drive or Ruby Lockhart Boulevard. Certain of the lots proposed on the re-subdivision of Parcel 2 will access Ruby Lockhart Boulevard through proposed internal access easements.

- (3) All internal subdivision streets shall be wholly within the County and shall not be designed to directly connect to an adjacent county unless the applicant has obtained the prior written approval of the District Council and the appropriate land use authority of the adjacent County.**
 - (A) An applicant must file a written request for said approval. The request shall be filed with the Clerk of the District Council. The District Council must either approve or disapprove said request within said forty-five (45) day period shall constitute an approval of the request. For purposes of this provision an internal subdivision street shall be deemed to be a public roadway having a right-of-way width of eight (80) feet or less.**
 - (B) After public hearing before the District Council, the Council shall not allow the proposed bi-county subdivision unless it finds that delivery of public safety services, utility services, and tax collection will be timely and adequate for the lots in Prince George's County.**

All internal streets in this proposed subdivision will be wholly within Prince George's County and will not connect in any way to an adjoining county.

- (4) All streets proposed for dedication to public use shall be designed to the standards of the County road ordinance and street standards for width and minimum curve radii or to the standards of municipalities having jurisdiction. Variations from these standards may be granted by the Planning Board upon the recommendation of the Department of Permitting, Inspections, and**

Enforcement or upon the recommendation of the municipality or other governmental authority having jurisdiction.

As noted earlier, MD 202 and St. Joseph's Drive are presently in existence. As also noted earlier, Ruby Lockhart Boulevard is presently being extended by another developer to intersect with St. Joseph's Drive. That construction will be in conformance with County road dedication requirements and construction standards.

- (5) **Arterial highways shall have a minimum right-of-way width of one hundred and twenty (12) feet; collector streets, a minimum right-of-way width of eighty (90) feet; and parkways, such right-of-way width as may be designated by the Planning Board. The width of secondary subdivision streets shall be not less than fifty (50) feet and the width of primary subdivision streets not less than sixty (60) feet.**

Ruby Lockhart Boulevard will be constructed within a 70-foot wide right-of-way as was required at the time of the platting of Parcels 1 and 2.

- (6) **Land for bike trails and pedestrian circulation systems shall be shown on the preliminary plan and, where dedicated or reserved, shown on the final plat when the trails are indicated on a master plan, the County Trails Plan, or where the property abuts an existing or dedicated trail, unless the Board finds that previously proposed trails are no longer warranted.**

If sidewalks are requested along St. Joseph's Drive, they will be provided. Internal pedestrian circulation systems within the subdivision will be provided by means of internal sidewalks. No trails are proposed to be provided as none are required by any Master Plan.

Sec. 24-124. – Adequate roads required.

- (a) **Before any preliminary plan may be approved, the Planning Board shall find that:**

- (1) **There will be Adequate access roads available to serve traffic which would be generated by the proposed subdivision, or there is a proposal for such roads on an adopted and approved mater plan and construction scheduled with one hundred percent (100%) of the construction funds allocated within the adopted County capital Improvement Program, within the current State Consolidated TRANSFORMATION Program, and/or such roads are incorporated in a specific public facilities financing and implementation progr4am as defined in Se3ction 27-107.01 (186.1); and**
- (2) **The traffic generated by the proposed subdivision will be accommodated on major intersections and major roadways within the established study area such that they will be functioning below the minimum peak-hour service levels adopted by the Planning Board in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals," as may be amended from time to time (hereinafter the "study area" refers to major intersections and major roadways as defined in the "Guidelines"); or**

See analysis regarding transportation adequacy provided above.

SEC. 24-124.01. – Adequate Public Pedestrian and Bikeway Facilities Required in County Centers and Corridors.

Given that MD 202 and St. Joseph's Drive have been constructed for many years, it is the applicant's belief and understanding that any required pedestrian or bike land facilities are already in place. If during review it is noted that additional facilities are being requested, the applicant will respond accordingly.

Section 24-128 Private Roads and Easements

- (a) No subdivision plat or plan of development (however designated) shall be approved that provides for a private road, right-of-way, or easement as the means of vehicular access to any lot, and no building permit shall be issued for the construction of any building in a subdivision unless such building is to be located on a lot or parcel of land having frontage on and direct vehicular access to a public street, except as hereinafter provided.

- (b) The Planning Board may approve plats and plans of development containing private roads, rights-of-way or easements under the following conditions:

* * * * *

- (9) Where direct vehicular access to an individual lot fronting on a public street should be denied to a potentially hazardous or dangerous traffic situation, a private easement may be approved in accordance with the driveway standards in Part 11 of Subtitle 27, in order to provide vehicular access, when deemed appropriate by the Planning Board.

* * * * *

(15) For Use as Part of an Integrated Shopping Center

- (A) For land in the C-S-C, M-A-C, M-X-C, or M-X-T Zones, the Planning Board may approve a subdivision with a private right-of-way easement, provided that:

- (i) Such right-of-way or easement shall have a minimum right-of-way width of twenty-two (22) feet connecting the lots to a public road;
- (ii) Such authorization shall be based on a written finding that the private right-of-way or easement is adequate to serve the extent of the development proposed and shall not result in any adverse impact on the access and use of other lots or parcels within the Integrated Shopping Center; and
- (iii) The development shall comply with all other applicable requirements of this Code.

The applicant is proposing a total of seven lots on what is now known as Parcel 2. All of these lots are proposed to be developed with commercial retail or service uses as part of a shopping center. Due to SHA access restrictions and also due to potentially dangerous traffic considerations, access would not be permitted onto MD 202 given the classification of that roadway and the proximity of the intersection of St. Joseph's Drive. Similarly, due to potential traffic safety considerations (proximity to MD 202), the applicant is not proposing any direct access for these seven lots onto St. Joseph's Drive. Rather, a single driveway access will be proposed on Ruby Lockhart Boulevard. From that access point, a private access easement a minimum of 22 feet wide is proposed to serve all of the seven lots. The access easement is shown on the Preliminary Subdivision Plan.

The land area currently known as Parcel 1 is proposed to be divided into two lots. The larger of these lots (7.37 acres) will be the site of a multifamily residential development. The remaining lot (1.87 acres) will be the subject of a commercial retail/service use. The applicant is proposing that a single access permit be approved to provide a driveway connection to Ruby Lockhart Boulevard. It is proposed that this driveway will be located on the multifamily parcel just south of the retail parcel. However, it is proposed that a 22 foot wide easement be allowed so that the retail parcel can achieve vehicular access to Ruby Lockhart Boulevard. In addition, the applicant will request a single right-in/right-out access point from the retail parcel onto St. Joseph's Drive.

Since the property is zoned M-X-T and is being developed with a shopping center, the applicant submits a private right-of-way or easement for access is authorized pursuant to Section 24-128(b)(9) and (15). This is the same procedure which Petrie Richardson used when developing Woodmore Towne Centre to serve multiple retail lots within that center. The proposed easement is centrally located within the lotting pattern and vehicles will be free to safely circulate. The applicant therefore submits that the use of this 22 foot wide private access easement will be adequate to serve the development and will not result in any adverse impact from a transportation standpoint. A copy of a letter dated January 15, 2019 from The Traffic Group and affirming this fact is marked Exhibit "A" and attached hereto. Finally, the applicant submits that it will conform and comply with all other applicable Code requirements concerning the design and construction of the 22 foot wide access easement.

DIVISION 5. - REQUIREMENTS: ENVIRONMENTAL AND PARKS.

Sec. 24-129. – One hundred (100) year floodplain.

(a) Land shall be platted in a manner that protects the public against loss of life or property due to the one hundred (100) year flood, while minimizing the public and private costs of flood control measures. The Planning Board shall require that proposed subdivisions conform to the following:

- (1) Except as provided in Paragraphs (2) and (3), lots shall comply with the minimum net lot areas prescribed by the Zoning Ordinance, exclusive of any land area within the one hundred (100) year floodplain.**
- (2) In the R-A and O-S Zones, where any lot contains a floodplain area, there shall be a minimum of forty thousand (40,000) contiguous square feet of area exclusive of any land within the one hundred (100) year floodplain.**

- (3) In the R-E Zone, and in the R-R Zone for the purposes of compliance with Section 24-128(b)(1)(B), any area of a lot in excess of twenty thousand (20,000) contiguous square feet may be in the one hundred (100) year floodplain provided that such lot is to be served by a public water and sewerage system, and is in water and sewer service area category one, two, or three at the time of approval of the final plat of subdivision.

There is no 100 year flood plain on the property.

Sect. 24-130 Stream, wetland, and water quality protection and stormwater management.

- (a) Proposed subdivisions shall be designed to minimize the effects of development on land, streams and wetlands, to assist in the attainment and maintenance of water quality standards, and to preserve and enhance the environmental quality of stream valleys.

There is no primary management area on the property. There are no streams or wetlands located on the property. A Stormwater Management Concept Plan has been submitted and is under review. The applicant believes that all required water quality standards will be met and satisfied and there will be no environmental degradation as a result of this development.

- (b) The Planning Board shall require that proposed subdivisions conform to the following:
 - (1) The preliminary plan shall demonstrate adequate control of the increased runoff due to the ten (10) year storm or such other standards as State law or the County shall adopt.
 - (2) The stormwater control shall be provided on-site unless the Planning Board, on recommendation from the County, waives this requirement.
 - (3) The submission of a storm drainage and stormwater management concept plan, and approval thereof by the County, may be required prior to preliminary plan approval.
 - (4) Where a property is partially or totally within an area covered by an adopted watershed Plan, the preliminary plan shall conform to such plan.
 - (5) Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.

- (c) **The submission of a sediment control concept study, and approval thereof by the Soil Conservation District, may be required prior to final plat approval.**

As noted above, a Conceptual Stormwater Management Plan has been submitted and is currently under review. As also noted above, there are no sensitive environmental features located on site. There are no wetlands or streams. A Natural Resources Inventory has already been approved and shows no impacts to sensitive environmental features.

PRIOR CONDITIONS OF APPROVAL

There have been several prior approvals and each contain conditions. However, due to the fact that the residential component is virtually completed, most of the conditions are no longer relevant. A discussion of those conditions which remain relevant follows.

Zoning Map Amendment Application A-9956-C

Condition 5. The development of the subject property shall be limited to the prior approved 393 residences plus additional permitted uses under the M-X-T Zone which generate no more than 1,013am and 1,058pm peak hour vehicle trips.

This Condition was revised and amended by the District Council in its Ordinance of March 28, 2018. As amended, Condition 5 now makes it clear the Applicant can develop any uses permitted in the M-X-T Zone on Parcel 1 and Parcel 2 as long as proposed development does not exceed the established trip caps.

Condition 10. Prior to the acceptance of a Detailed Site Plan for development of the twenty (20) acres (Parcels 1 and 2), the Applicant shall provide written confirmation that it has held a community meeting with stakeholders which shall include an invitation to at least representatives from St. Joseph's parish and Balk Hill Homeowners association

As part of its request to revise conditions attached to the rezoning the Applicant also sought clarification and revision to Condition 10. Condition 10 as set forth above was amended pursuant to the District Council's Ordinance which became effective March 27th, 2018. The applicant will conform to the requirements of this Condition.

Conceptual Site Plan CSP-03001

Condition 9. Development of this subdivision shall be in compliance with an approved type 1 tree conservation plan (PCP I/19/03).

All development will be in accordance with the approved tree conservation plan as it may be amended.

Preliminary Subdivision Plan 4-03094

Condition 6(b). Provide wide sidewalks (six to eight feet wide) along both sides of St. Joseph's Drive, per the concurrence of DPW and T.

This condition will be addressed at time of Detailed Site Plan.

Condition 6(c). Provide standard sidewalks along both sides of all other internal roads per the concurrences of DPWT.

This condition will be addressed during processing of the Detailed Site Plan.

Condition 15. Development must be in accordance with the approved stormwater management concept plan, Concept 4981-2002-00, or any approved revisions thereto.

The applicant intends to conform with all applicable stormwater management plans as approved by Prince George's County.

Condition 17. The use and ownership disposition of Parcels 1 and 2 shall be determined at the Detailed Site Plan stage.

This condition was previously satisfied at the time of the approval of DSP-04067. Parcels 1 and 2 were deeded to the Revenue Authority.

Condition 18. At the time of final plan approval, the applicant shall dedicate a right of way along Campus Way and St. Joseph's Drive in accordance with the submitted plan.

The final plats have been approved and recorded. Right of way required along the St. Joseph's Drive frontage of Parcel 1 and Parcel 2 has been dedicated.

Condition 19. The applicant will provide an additional eastbound through lane along MD 202 through the I-95 interchange and additional eastbound and westbound through lanes along MD 202 between the I-95 interchange and Lottsford Road. Additionally, the applicant will provide a second eastbound left-turn lane along MD 202 at the McCormick Drive/St. Josephs Drive intersection. These improvements will be either directly provided by the applicant, or will be funded by the applicant by payment of a fee, not to exceed \$1.24 million (in 2002 dollars) to be paid on a pro-rata basis.

All required improvements have been made.

Condition 22. Parcels 1 and 2 shall be platted in conjunction with the first final plats for the entire development. The Parcels shall be conveyed to the Revenue Authority immediately upon recordation.

Parcels 1 and 2 were in fact deeded to the Revenue Authority, by deed date June 20, 2012 and recorded in Liber 33973, Folio 099.

Condition 23. At the submission of the first Detailed Site Plan, the Applicant shall submit documentation on the structure of the advisory planning committee and how it will function to advise the Revenue Authority. on the development of Parcels 1 and 2 pursuant to condition 10 of Zoning Map Amendment Application A-9956-C. As

part of the documentation noted above, it shall include confirmation that the representatives from the required membership have been duly chastened by the respective organizations.

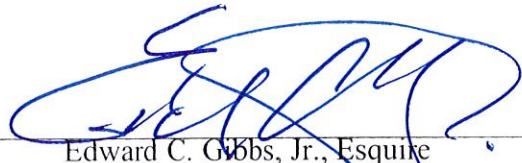
As noted above, Condition 10 in Zoning Map Amendment Application A-9956-C has in fact been amended at the request of the Applicant and the Revenue Authority. The advisory planning committee no longer exists. That being said, Balk Hill Ventures intends to continue to interact with civic associations and other interested individuals and entities.

Detailed Site Plan DSP -04067.

DSP-04067 included a number of conditions. However, those conditions related to the residential development of the 393 units within Balk Hill. None of the conditions attached to that approval impact the development of Parcel 1 and Parcel 2.

CONCLUSION

On the basis of all of the foregoing, Petrie Richardson and Balk Hill Ventures respectfully submit that all required statutory criteria are met and satisfied in this instance. They therefore request that this Preliminary Subdivision Plan be approved as submitted.



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