

C O R R E C T E D   A M E N D E D   R E S O L U T I O N

WHEREAS, Cross Creek Phase VI, Inc. is the owner of a 43.62-acre parcel of land known as Lots 1-126, Tax Map 8, Grid E3 and F-3 said property being in the 1st Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on March 21, 2003, Bear Corporation filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 126 lots and 8 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-03016 for ~~\*\*[Oak]~~ Cross Creek Club was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on May 29, 2003, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

\*WHEREAS, on May 29, 2003 the Planning Board approved Preliminary Plan of Subdivision 4-03016; and

\*WHEREAS, on February 23, 2006 the Planning Board approved a request to reconsider Condition No. 7 of Preliminary Plan of Subdivision 4-03016 based on inadvertence and other good cause; and

\*WHEREAS, the basis of that inadvertence and other good cause was that the original approval of the preliminary plan, erred by not anticipating the intricate sequence of trail and park construction on the subject property; and

\*WHEREAS, on February 23, 2006, the Planning Board reconsidered the Preliminary Plan of Subdivision and approved the subject application with all of the original conditions and findings, with the exception of the modification of existing Condition No. 7 and Finding No. 6 and the addition of new Conditions 20 and 21.

WHEREAS, on May 29, 2003, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

\*\*Denotes Correction

\*Denotes Amendment

Underlining indicates new language

[Brackets} indicate deleted language

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince

George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/11/95), and further APPROVED Preliminary Plan of Subdivision 4-03016, Cross Creek Club for Lots 1-126 and Parcels A-H with the following conditions:

1. Prior to signature approval of the preliminary plan:
  - a. The plan shall be revised so that all lots with direct access to Old Gunpowder Road are a minimum of 15,000 square feet.
  - b. The plan shall be revised so that a strip of land to be conveyed to the homeowners association is located between lots and abutting property on the perimeter of Cross Creek.
2. Prior to the issuance of any residential building permits within this Preliminary Plan of Subdivision, the applicant, his heirs, successors and/or assignees shall contribute (\$1,889 per dwelling unit) X [(FHWA Highway Construction Cost Index yearly average at the time of building permit application) ) (FHWA Highway Construction Cost Index for the first quarter of 1995)] towards programmed improvements along MD 212, Ammendale Road, and Virginia Manor Road as specified in Prince George's County CIP Project No. FD666151.
3. At the time of Final Plat approval, the applicant, his heirs, successors and/or assignees shall dedicate right-of-way along Old Gunpowder Road, including the proposed relocation of Old Gunpowder Road. Improvements within the dedicated right-of-way and improvements at the locations where access to the subdivision is provided from Old Gunpowder Road shall be determined by DPW&T.
4. No building permits shall be issued for this subdivision until the percent capacity, as adjusted pursuant to the School Regulations, at all the affected school clusters are less than or equal to 105 percent or 6 years have elapsed since the time of the approval of the preliminary plan of subdivision; or pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.
5. At the time of final plat, the applicant, his successors and/or assignees shall dedicate to M-NCPPC 2± acres of parkland as shown on the Department of Parks and Recreation (DPR) Exhibit "A." Land to be conveyed subject to the following:
  - a. 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.
  - b. 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, sidewalks, curbs and gutters, and front-foot benefit charges prior to

and subsequent to Final Plat.

- c. 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.
  - d. 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, 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 DPR within two weeks prior to applying for grading permits.
  - e. 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 to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
  - f. All waste matter of any kind shall be removed from the property to be conveyed. DPR shall inspect the site and verify that it is in acceptable condition for conveyance, prior to Final Plat approval.
  - g. No stormwater management facilities, or tree conservation or utility easements shall be proposed on lands owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
6. The applicant, his heirs, successors and/or assignees shall construct a 12-foot-wide hiker/biker trail and a 10-foot-wide equestrian within a right-of-way which shall run from the public parkland located south of Briggs Chaney Road north into Fairland Regional Park. The trail right-of-way shall be no less than 50 feet wide and the land within the right-of-way shall be deeded to M-NCPPC. The applicant shall work with the Department of Parks and Recreation (DPR) to locate the exact alignment of the trail.
7. The hiker/biker and equestrian trails shall be constructed in conjunction with the construction of relocated Gunpowder Road and completed, inspected and accepted by DPR prior to the issuance of the [364<sup>th</sup>] 394<sup>th</sup> building permit or completion of relocated Gunpowder Road, whichever comes first.

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8. The applicant, his heirs, successors and/or assignees shall revise the RFA recorded in the

Land Records of the Prince George's County Land Record in Liber 11625, Folio 094 to reflect the changes in construction phasing. Three weeks prior to the submission of any final plat of subdivision, the applicant shall submit to DPR three original, executed copies of revised RFA. Upon receiving approval of the RFA, the applicant shall record the document among the Land Records of Prince George's County.

9. Prior to signature approval of Preliminary Plan 4-03016, the applicant, his heirs, successors and/or assignees shall submit to DPR three original, executed copies of the Cross Creek Off-Site Tree Agreement. Upon receiving approval of the agreement, the applicant shall record the document among the Land Records of Prince George's County.
10. The applicant, his heirs, successors and/or assignees shall enter into the RFA for off-site recreation facilities as described in the Cross Creek Off-Site Tree Agreement. Three weeks prior to the submission of any final plat of subdivision, the applicant shall submit to DPR three original, executed copies of the revised RFA. Upon receiving approval of the RFA, the applicant shall record the document among the Land Records of Prince George's County.
11. The applicant, his heirs, successors and/or assignees shall submit to DPR a performance bond, letter of credit or other suitable financial guarantee (suitability to be determined by Legal Counsel) for trails and off-site recreation facilities and tree afforestation on park property at least three weeks prior to applying for any grading permits. The applicant shall contact the staff of DPR prior to submitting the performance bond to determine the bond amount.
12. The applicant, his heirs, successors and/or assignees shall submit a letter to the Subdivision Section indicating that the Department of Parks and Recreation (DPR) has conducted a site inspection and found the land to be dedicated to M-NCPPC in acceptable condition for conveyance. The letter shall be submitted with the Final Plat of Subdivision.
13. The trail along Lot 95, Block E, shall be set back five feet from the property line. The entrance feature shall be redesigned or reduced in size to provide sufficient room for the trail.
14. The area for the entrance feature in the trail right-of-way shall be platted as a separate parcel to be dedicated to the HOA. The configuration of the parcel shall be approved by the Planning Board or its designee prior to signature approval of the preliminary plan.
15. Development of this subdivision shall be in accordance with the approved Conceptual Stormwater Management Plan CSD #968006990 or any revisions thereto.
16. Prior to signature approval of Preliminary Plan 4-03016, compliance with Condition 2 of the Conceptual Site Plan approval regarding the provision of off-site 100-year floodplain afforestation shall be demonstrated by submittal of an executed agreement between the Department of Parks and Recreation and the developer for the provision of off-site floodplain

afforestation on park property. The agreement shall specify the amount of 100-year floodplain afforestation that will be provided on park property.

17. Prior to the issuance of permits for Phases IV or VI, Type II Tree Conservation Plans for off-site floodplain afforestation on park property in locations and acreages acceptable to the Department of Parks and Recreation and the Environmental Planning Section shall be approved.
18. Prior to the issuance of permits for Phases IV or VI, the total quantity of off-site 100-year floodplain afforestation on park property shall be bonded with the Department of Environmental Resources. Bonds for the off-site afforestation area shall be held for five years in conformance with the afforestation maintenance requirements of the Woodland Conservation Policy Document.
19. Prior to approval of final plat(s) for Phase VI, the approved Type II Tree Conservation Plans that compose the limits of TCPI/11/95 shall demonstrate that the woodland conservation threshold has been met on-site.
20. The applicant, his heirs, successors and/or assignees shall amend the RFA recorded in the Land Records of the Prince George's County Land Record in Liber 20319, Folio 129 to reflect the changes in construction phasing. Prior to the submission of any additional building permits beyond 364th building permit, the applicant shall submit to DPR three original, executed copies of revised RFA. Upon receiving approval of the RFA, the applicant shall record the document among the Land Records of Prince George's County.
21. The applicant, his heirs, successors and/or assignees shall amend the Off-Site Recreational Facilities Agreement between the M-NCPPC and the Bear Corporation to reflect that a Gravel Parking Facility with 113 parking spaces shall be constructed of asphalt surfacing. Prior to the submission of any additional building permits beyond 364th building permit, the applicant shall submit to DPR three original, executed copies of revised agreement. Upon receiving approval of the Agreement, the applicant shall record the document among the Land Records of Prince George's County.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located in the northwest quadrant of the Briggs Chaney Road/Old Gunpowder Road intersection.

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3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	Undeveloped	Single-family detached homes
Acreage	75.79	75.79
Lots	0	126
Parcels	2	8
Detached Dwelling Units	0	126

4. **Environmental**—Cross Creek Club is a six-phase golf course community being developed under the Recreation Planned Community (R-P-C) requirements in the R-R Zone. This site was previously reviewed by the Environmental Planning Section as a Conceptual Site Plan (CSP -96021), a Preliminary Plan (4-96048), and a Type I Tree Conservation Plan (TCPI/11/95). During each of these approvals, specific conditions were imposed for the entire property. Detailed Site Plans and Type II Tree Conservation Plans have been approved for all phases of Cross Creek Club except for Phase VIB.

The submittal of the subject application for a preliminary plan is necessary because the prior preliminary plan expired. The intent of this application is to “renew” the prior preliminary plan approval, according to notes included on the preliminary plan, and the boundaries proposed by the application are limited to the extents of Phases IV and VI. A TCPI (TCPI/11/95) was previously approved for the subject property. No revision to the TCPI has been proposed as part of this application

A detailed review of environmental concerns was carried out at the time of Conceptual Site Plan approval subject to conditions contained in PGCPB No. 96-250. All conditions of the CSP have been previously addressed through the review of subsequent development applications for the site. All conditions of approval for the Conceptual Site Plan approval are binding for Phases IA, IV, and VI, where applicable.

Condition No. 2 of PGCPB No. 96-250 reads in part as follows:

“Prior to certificate approval of the TCP I (TCP I/11/95):

- “a. The TCP I shall be revised so that total amount of woodland conservation provided on-site shall at a minimum be equal to the woodland conservation threshold (51.26 acres) plus the wooded floodplain replacement requirement (equal to the amount of wooded floodplain cleared).”
- “b. A reduction to on-site woodland conservation may be allowed for wooded floodplain replacement requirement if it is mitigated off-site through the afforestation of floodplain on a one-to-one basis. Any proposal for off-site

floodplain afforestation, which would affect the amount of on-site woodland conservation, must be submitted for approval prior to certificate approval of the TCP I.”

- “c. At time of certificate approval, the on-site Woodland Conservation requirement may be reduced up to the acreage of wooded floodplain replacement required, if locations proposed by the applicant are found acceptable to the Natural Resources Division.”

Prior to approval of TCPI/11/95 a letter was submitted to the Environmental Planning Section indicating that the Department of Parks and Recreation (DPR) and the developer had entered into a preliminary agreement for the provision of up to 18 acres of wooded 100-year floodplain replacement on DPR property. Based on this information, the on-site woodland conservation requirement for the subject property was reduced to the woodland conservation threshold in accordance with Condition 2.a.

Subsequently, two TCPIIs were approved for off-site 100-year floodplain afforestation on DPR property. TCPII/135/90 for Oxon Run Neighborhood Park was approved showing 10.4 acres of floodplain afforestation. TCPII/97/93 for a portion of the Anacostia Tributary Heritage Trail was approved showing 2.0 acres of floodplain afforestation, for a total of 12.4 acres of off-site afforestation. The Maryland Department of Natural Resources (MDNR) Forest Service and M-NCPPC accomplished the 2.0 acres of floodplain afforestation in the Northwest Branch on April 19, 1997, with volunteer labor. According to a letter from the MDNR to M-NCPPC (Turner to Finch, March 2, 1999): “Over 565 potted trees and shrubs were planted and the trees were paid for by the developer for Cross Creek as part of a mitigation agreement.” No off-site afforestation has been undertaken at the Oxon Hill Property. During the issuance of grading permits for the golf course (Phase 1A), bonds for the off-site floodplain afforestation were secured from the developer for 7.21 acres of the required 10.4 acres of planting.

The Department of Park and Recreation (DPR) has recently notified the Environmental Planning Section that the conditions of the Conceptual Site Plan as stated in Condition 2 have not been completely fulfilled for the following reasons:

- a. The agreement between DPR and the developer to provide off-site floodplain afforestation on park property was never fully executed.
- b. Due to program requirements, DPR is no longer able to provide 10.4 acres of floodplain afforestation at the Oxon Hill site, but may need to reduce the area available for planting.

No revision to the TCPI was proposed as part of this application. To determine that the TCPI remains in conformance with previously approved conditions of the Conceptual Site Plan, the Environmental Planning Section recommends compliance with Condition 2 of the Conceptual Site Plan approval regarding the provision of off-site 100-year floodplain afforestation be demonstrated. An executed agreement between the Department of Parks and Recreation and the developer for the provision of off-site floodplain afforestation on park property should be

submitted. The agreement should specify the amount of 100-year floodplain afforestation that will be provided on park property.

#### **Compliance with Preliminary Plan 4-96048**

A detailed review of environmental concerns was carried out at the time of Preliminary Plan 4-96048, which was approved subject to conditions contained in PGCPB No. 96-254. All conditions of approval for the Preliminary Plan should remain binding for Phases IA, IV, and VI, where applicable.

The approval of Phase IV (DSP-02043) has proposed a significant shifting of the phase boundary between Phases IA (golf course) and Phase IV affecting the shape and area of Parcel 3. This has also affected previously platted conservation easements placed on the golf course, which will also need to be re-recorded. The revised preliminary plan has been expanded to include Parcel 3 (Phase 1A), which has been affected in area and configuration by the proposed revision to the phase boundary.

#### **Conformance with Tree Conservation Plan I/11/95**

The Preliminary Plan is in substantial conformance with the conceptual TCPI. The Preliminary Plan has shown the creation of new homeowners association parcels, not part of the prior preliminary plan or TCPI, which are credited to fulfill on-site woodland conservation requirements. This does represent a major revision to the TCPI.

Type II Tree Conservation Plans have been approved for Parcel 3, Phase 1A (TCPII/52/97-05), Phase IV (TCPII/114/02) and Phase VI-A (TCPII/38/98), and all are in conformance with TCPI/11/95. A revision of TCPII/38/98 associated with the Detailed Site Plan for Phase VI is required to demonstrate that the woodland conservation threshold has been provided on-site.

#### **Environmental Review**

The environmental concerns affecting Phases IV and VIA will be addressed through the review of a Detailed Site Plan (DSP-03013) and a revised Type II Tree Conservation Plan (TCPII/38/98-01).

There may be changes in the quantity and size of lots proposed along Old Gunpowder Road due to requirements of the Recreational-Planned-Community. Proposed homeowners association parcels on the east side of relocated Gunpowder Road may be lost due to the enlargement of perimeter lots, which will affect the woodland conservation provided. The Environmental Planning Section cannot make a final determination that the woodland conservation threshold requirement has been met on-site until the layout for these lots is finalized. Additional lots may be lost to fulfill the woodland conservation threshold on-site.

5. **Community Planning**—The property is in Planning Area 61/Fairland-Beltsville. The 2002 General Plan placed the property in the Developing Tier. The 1990 Adopted and Approved



Master Plan for Subregion I recommends suburban residential land use for this property. The plan recommends that two roadways, Briggs Chaney Road and Old Gunpowder Road, be upgraded to collector status with 80-foot-wide rights-of-way. In addition, the plan recommends that the Old Gunpowder Road collector roadway (C-1) be realigned through this property. The 1990 sectional map amendment for Subregion I retained this property in the R-R Zone. The proposal does not raise any master plan issues that have not been previously addressed. The preliminary plan includes a realignment of Old Gunpowder Road through a portion of the site as recommended in the master plan. This proposal for a recreational community development is not inconsistent with the 2002 General Plan policies for the Developing Tier.

6. **Parks and Recreation**—The Park Planning and Development Division of the Department of Parks and Recreation (DPR) has reviewed the subject preliminary plan and made the following findings. The subject subdivision is part of previously approved Preliminary Plan 4-96048, which has been expired. DPR staff finds that the following conditions of Prince George’s County Planning Board Resolution PGCPB No. 96-254 are still applicable to the subject preliminary plan:

**Condition 26 In accordance with Sections 24-134 and 135 of the Subdivision Regulations, the Planning Board on the recommendation of the Department of Parks and Recreation, required of the applicant, his heirs, successors and/or assigns, that land to be dedicated to The Maryland-National Capital Park and Planning Commission (M-NCPPC) Parcels N & P, (6.1± acres) shall be subject to the DPR Exhibit “B”.**

*Comment:* The park parcel within the limits of the current application has not yet been dedicated.

**Condition 27 The applicant, his heirs, successors and/or assigns shall construct a 12-foot wide hiker/biker trail and a 10-foot wide equestrian within a right-of-way which shall run from the public parkland located south of Briggs Chaney Road (Parcels N and P) north into Fairland Regional Park. The trail right-of-way shall be no less than 50-foot wide and the land within the right-of-way shall be donated to The Commission. The Applicant shall work with the Department of Parks and Recreation (DPR) to locate the exact alignment of the trail.**

*Comment:* The trails are not yet constructed. The trail alignment will be addressed at the detailed site plan stage.

**Condition 28 The hiker/biker and equestrian trails shall be constructed in conjunction with the construction of relocated Gunpowder Road and completed, inspected and accepted by DPR prior to the issuance of any building permits for Phase 5 development or completion of relocated Gunpowder Road, whichever comes first.**

*Comment:* The hiker/biker and equestrian trails located in Phase IV and VI are not yet constructed. The condition requires that construction of the trails be completed prior to the issuance of any building permits for Phase V development or completion of relocated Gunpowder Road, whichever comes first. Phase V of the development includes 106 dwelling units, which is 23 percent of the total development; DPR staff recommends completing the trails prior to issuance of the last 23 percent of building permits in the development. DPR staff recommends that the hiker/biker and equestrian trails shall be constructed in conjunction with the construction of relocated Gunpowder Road and completed, inspected and accepted by DPR prior to the issuance of the 364<sup>th</sup> building permit or completion of relocated Gunpowder Road, whichever comes first. Given the severe topography, the trail should be constructed concurrent with road construction.

The builders at Cross Creek reached the 364 building permit level in early 2006 and are precluded from obtaining the issuance of permits for the remaining 108 permits until the requirements of the originally approved Condition No. 7 are met. The applicant requested that the 364 building permit level be adjusted to 394. This would allow for the construction of 30 more dwelling units before the requirements of the condition would need to be met.

The Parks Department confirmed that they support the applicant's request for the reasons stated below:

- A. The proposed trails are completed from Briggs Chaney Road south of the project to M-NCPPC's proposed park north of the project.
- B. The subject trails cannot physically be constructed through the proposed park site until the park is graded and a very significant amount of dirt is removed.
- C. The park site cannot be graded or seeded during the winter months.
- D. The developer could not have anticipated the amount of grading required when the plan was originally approved.
- E. The Parks Department has recently requested and the developer has agreed to pave the Park's parking lot necessitating additional grading and expense, contrary to what all parties assumed at the time of preliminary plan approval.
- F. There is no practical location to move the excess dirt until construction proceeds in the unfinished phases of the project. It would be counterproductive to truck it off site temporarily only to bring it back six months later.
- G. The remaining 78 building permits are more than sufficient protection in support of the completion of all required recreation facilities.

The Parks Department also indicated that to insure the paving of the parking lot mentioned in "E" above, additional conditions should be required. These conditions relate to amending the off-site Recreational Facilities Agreement to note the change in the construction phasing and the change in the surface material of the 113-space parking lot.

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In addition to the restriction on building permits contained in Condition No. 7, at the public hearing on February 23, 2006, the applicant proffered to have the trail constructed by August 31, 2006.

**Condition 29** The applicant, his heirs, successors and/or assigns shall enter into a Recreational Facilities Agreement (RFA) with DPR. Three weeks prior to the submission of any final plat of subdivision, the Applicant shall submit to DPR three original, executed copies of the RFA. Upon receiving approval of the RFA, the Applicant shall record the document among the Land Records of Prince George's County.

*Comment:* The recorded RFA, Liber 11625, Folio 094 needs to be revised to reflect changes recommended above.

**Condition 30** The applicant, his heirs, successors and/or assigns shall submit to DPR a performance bond, letter of credit or other suitable financial guarantee (suitability to be determined by DPR's Legal Counsel) at least three weeks prior to applying for any grading permits. The Applicant shall contact the staff of DPR prior to submitting the performance bond to determine the bond amount.

*Comment:* The applicant shall submit a bond for trails construction three weeks prior to grading permit.

**Condition 32** The applicant, his heirs, successors and/or assigns shall submit a letter to the Subdivision Section indicating that the Department of Parks and Recreation (DPR) has conducted a site inspection and found the land to be dedicated to The M-NCPPC in acceptable condition for conveyance. The letter shall be submitted with the Final Plat of Subdivision.

*Comment:* The land to be dedicated to M-NCPPC shall be inspected prior to final plat of subdivision.

The Department of Parks and Recreation finds that the trail along Lot 95, Block E, in Phase 4 is wedged between the property line and the entrance feature sign. In addition, the entrance feature sign is located in the parcel to be dedicated to the Commission. The trail should be located a minimum of five feet from the property line, and a fence or landscaping should be installed along the property line to provide a visual buffer. The entrance feature should be redesigned or reduced in size to provide sufficient room for the trail. The area for the entrance feature should be platted as a separate parcel to be dedicated to the HOA.

A small section of the trail immediately south of Bay Hill Drive is located on HOA land. The park parcel line on the south of Bay Hill Drive should be adjusted to place the master

plan trails on the dedicated parkland. Plans should be revised prior to signature approval of the Preliminary Plan to reflect these changes.

The approval of the Tree Conservation Plan, TCPI/11/95, as part of Preliminary Plan 4-96048 approval was subject to off-site floodplain afforestation within the Anacostia Watershed on park property. There is an existing draft agreement between the applicant and Department of Parks and Recreation for 12.4 acres of tree planting in the Anacostia Watershed on park property in return for construction of a parking lot, ball fields and trail connection to Fairland Regional Park on adjacent parkland to the north of the Cross Creek development. In addition, some of the off-site floodplain afforestation areas must be relocated. The agreement should be revised to reflect these changes and executed prior to certificate of approval of Preliminary Plan 4-03016. A TCPII plan for off-site floodplain afforestation on park property in a location and quantities acceptable to DPR should be approved prior to the issuance of building permits in Phase IV and VI. The applicant should enter into a Recreation Facilities Agreement (RFA) for the construction of those facilities.

7. **Trails**—The Adopted and Approved Subregion I Master Plan recommends several master plan bicycle/trail facilities for the subject site. These include master plan bikeways along Briggs Chaney Road and Old Gunpowder Road, and a multiuse trail along Little Paint Branch. Through prior approvals, it has been determined that the north-south trail access through the site will be in the form of a multiuse trail corridor along relocated Gunpowder Road.

Condition 27 of approved Preliminary Plan 4-96048 states, “The applicant, his heirs, successors, and/or assigns shall construct a 12-foot-wide hiker/biker trail and a 10-foot-wide equestrian trail within a right-of-way which shall run from the public parkland located south of Briggs Chaney Road (Parcels N and P) north into Fairland Regional Park. The trail right-of-way shall be no less than 50 feet wide and the land within the right-of-way shall be donated to M-NCPPC. The applicant shall work with DPR to locate the exact alignment of the trail”. Condition 1a of SP-96076 reinforces this condition and further specifies “the alignment and details of the trail extension shall be approved by DPR prior to certificate approval.” SP-96076 also recommends the provision of a sidewalk connection along Briggs Chaney Road to the master plan trail (condition 1c) and the provision of crosswalk across Briggs Chaney Road (condition 1a).

8. **Transportation**— This site was originally reviewed as a portion of the original Cross Creek development in 1996 as Preliminary Plan application 4-96048. Staff reviewed a traffic study for the purpose of making an adequacy finding for 472 lots at that time. Although the original preliminary plan has expired, staff believes that there is sufficient information available to make the needed findings now. Therefore, the Planning Board’s normal requirement for a traffic study, based on the size of the subject development, was waived. The findings and recommendations outlined below are based upon a review of relevant materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

### **Growth Policy - Service Level Standards**

The subject property is located within the Developing Tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections within any Tier subject to meeting the geographical criteria in the *Guidelines*.

**Unsignalized intersections:** The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

### **Staff Analysis of Traffic Impacts**

As noted earlier, the previous preliminary plan reviewed for this site, 4-96048, expired prior to its recordation. While this site is technically subject to new findings of transportation adequacy, there are a number of factors to consider at this time:

- a. The site was previously reviewed for 472 residences. The Cross Creek development has been under construction for some time, and it appears construction is active on 29 recorded lots, with the 126 lots under this application remaining. Approximately 302 residences have been completed to date. Therefore, the subject application does not represent an increase in development over the development quantity previously approved.
- b. The Planning Board has generally allowed subdivisions in similar circumstances to move forward provided that prior conditions needed to address adequacy considerations are carried forward, and provided that significant transportation changes have not occurred that would result in different assumptions and new findings. Circumstances in the area have not changed, and the conditions on Preliminary Plan 4-95048 will be carried forward.
- c. The construction of 472 residences within Cross Creek has been assumed in all recent traffic impact studies in the area. As noted under the first determination above, it appears that the entire Cross Creek Club development will yield approximately 457 residences (302 completed plus 29 under construction plus 126 herein).

In recognition that there is a prior subdivision for this site and that the development for the subject property remains unchanged from the prior subdivision, staff finds the subject application would generate no net trips relative to prior applications for the site. Consequently, there would be no net impact on the critical intersections in the area as identified during the review of Preliminary Plan 4-96048.

The prior preliminary plan included seven transportation-related conditions. The status of these conditions relative to their inclusion as conditions on the subject plan are discussed below:

Condition 38: This condition requires a payment per lot toward improvements along Ammendale and Virginia Manor Roads. Consistent with findings made at the time of Preliminary Plan 4-96048, staff recommends that this condition be retained.

Condition 39: This condition relates to access to development on the west side of the Little Paint Branch and need not be made a condition for the subject site.

Condition 40: This condition relates to stub streets into Montgomery County. It relates to development on the west side of the Little Paint Branch and need not be made a condition for the subject site.

Condition 41: This condition requires dedication along Briggs Chaney Road and Old Gunpowder Road. While the subject site is not adjacent to Briggs Chaney Road, it is adjacent to Old Gunpowder Road, and that portion of this condition will be retained.

Condition 42: This condition requires a further level of review of the street network prior to signature approval of Preliminary Plan 4-96048. That review was done prior to signature approval of Preliminary Plan 4-96048, and as this condition has been fulfilled, it need not be retained.

Condition 43: This condition requires a modification to a street on the west side of the Little Paint Branch. The modification was done; nonetheless, it need not be made a condition for the subject plan.

Condition 44: This condition requires that certain areas on the west side of the Little Paint Branch be placed in reservation for the future A-44 facility, as identified on the Subregion I Master Plan. No areas within the subject site have been identified for reservation; therefore, this condition need not be carried over for approval of the subject plan. However, staff notes that we have no record of the reservation or knowledge of any purchase of the proposed right-of-way by the State Highway Administration.

Based on these findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with conditions.

9. **Schools**— The Historic Preservation and Public Facilities Planning Section has reviewed the

subdivision plans for adequacy of public school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001 and CR-38-2002).

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 1	Middle School Cluster 1	High School Cluster 1
Dwelling Units	126 sfd	126 sfd	126 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	30.24	7.56	15.12
Actual Enrollment	5680	1740	4224
Completion Enrollment	102	26	53
Wait Enrollment	1	0	1
Cumulative Enrollment	17.76	4.44	8.88
Total Enrollment	5831	1778	4302
State Rated Capacity	5279	1759	4123
Percent Capacity	110.46%	100.08%	104.34%
Funded School	N/a	N/a	N/a

Source: Prince George's County Planning Department, M-NCPPC, January 2003

These figures are correct on the day the referral memorandum was written. They are subject to change under the provisions of CB-40 and CR-23. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers that will be used in the resolution are the ones that will apply to this project.

The affected elementary school cluster percent capacity is greater than 105 percent. There is no Funded School in the affected elementary school cluster. Therefore, this subdivision may be approved subject to conditions, in accordance with Section 24-122.02, including a six-year waiting period.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public fire and rescue facilities.
  - a. The existing fire engine service at Beltsville Road Fire Station, Company 41, located at 3939 Powder Mill Road, has a service travel time of 4.96 minutes, which is within the 5.25-minute travel time guideline.
  - b. The existing ambulance service at Beltsville Road Fire Station, Company 41, has a

service travel time of 4.96 minutes, which is within the 6.25-minute travel time guideline.

- c. The existing paramedic service at College Park Fire Station, Company 12, located at 8115 Baltimore Avenue, has a service travel time of 10.45 minutes, which is beyond the 7.25-minute travel time guideline. The nearest fire station Beltsville, Company 41, is 4.96 minutes from the development. This facility would be within the recommended travel time for paramedic service.

These findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. Fire and rescue facilities will be adequate to serve this subdivision.

11. **Police Facilities**—The proposed development is within the service area for Police District VI-Beltsville. In accordance with Section 24-122.1(c) of the Subdivision Regulations of Prince George's County, existing county police facilities will be adequate to serve the proposed Cross Creek Club development. This police facility will adequately serve the population generated by the proposed subdivision.
12. **Health Department**—The Health Department reviewed the application and offered no comments.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, # 968006990, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan or any revisions thereto.
14. **Cemeteries**<sup>¾</sup> There is a cemetery on Phase I of Cross Creek, but none in the area of the proposed preliminary plan.
15. **Zoning Conformance**<sup>¾</sup> Following are the requirements for development under Recreational Community Development of Section 27-444 (b)(12) of the Zoning Ordinance.

(12) **All lots (used for residential purposes) which are located along the perimeter of the community, and that abut property or streets not within the community, shall be limited to one-family detached dwellings, and shall be developed in conformance with the following requirements:**

a. **R-R Zone**

- i. **The minimum net lot area shall be fifteen thousand (15,000) square feet;**
- ii. **Not more than twenty-five percent (25%) of the net lot area may be covered by buildings and parking areas; and**
- iii. **The yard requirements of Section 27-442, Table IV, shall be met. The lot frontage requirements of Section 27-442, Table III shall be met for lots**



**fronting on adjoining street s that are not within the Recreational  
Community Development.**

There appear to be several lots east of Relocated Old Gunpowder Road which are located along the perimeter of the community and abut streets or property not within the community which do not fulfill these requirements and should be re-evaluated with regard to lot size, frontage, and side yard requirements. These are:

- a. Lots 11 through 14, Block W.
- b. Lots 1 through 6, Block X.
- c. Lots 1, 2, 5, 10, 11, 12 and 13, Block Y

In Cross Creek, these provisions have been satisfied with a strip of land between lots and abutting perimeter streets and properties. This strip of land is to be conveyed to the Cross Creek Homeowners Association. The applicant must revise the plan to include this strip where possible. However, this strip cannot be provided between the lots and a street. The applicant has provided a sketch that shows this strip between lots and Old Gunpowder Road. This configuration would require the owners of those lots to cross HOA land to get from the street to their lot. This is not legal. The Zoning Ordinance requires all lots to have frontage on and direct vehicular access to a street. Lots accessing Old Gunpowder Road must have frontage on that road, and these lots must be a minimum of 15,000 square feet in size, per Zoning Ordinance requirements for the R-R Zone Recreational Community Development standards.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Eley, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, February 23, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of July 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:AH:bjs