

R E S O L U T I O N

WHEREAS, Contee Road Business Park LTD Partnership is the owner of a 10.8-acre parcel of land known as Parcels 8 and 57, Tax Map 10, Grid A-2, said property being in the 10th Election District of Prince George's County, Maryland, and being zoned I-1; and

WHEREAS, on May 5, 2003, Contee Road Business Park, LTD filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-03038 for Marlo III 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 September 25, 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 September 25, 2003, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

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/93/90-01), and further APPROVED Preliminary Plan of Subdivision 4-03038, Marlo III for Parcel A including a Variation to Section 24-121 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. To correctly reflect the zone of the abutting properties and label which properties are within the City of Laurel.
 - b. To indicate that a variation was granted to Section 24-121 of the Subdivision Regulations for direct vehicular access to Contee Road, if approved by the Planning Board.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
3. Development of this property shall be in conformance with the approved Stormwater Management Concept Plan, #13452-2003-00.
4. Prior to the issuance of grading permits, the applicant shall submit evidence from the Health Department that the tires found on the property have been hauled away by a licensed scrap tire

hauler to a licensed scrap tire disposal/recycling facility.

5. In conformance with the Adopted and Approved Subregion I Master Plan, the applicant and the applicant's heirs, successors and/or assignees shall construct an eight-foot-wide, Class II hiker-biker trail along the entire length the subject property's frontage of Contee Road, unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.

6. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/93/90-01). The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/93/90-01), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy.”

7. The Type II Tree Conservation Plan shall demonstrate that the areas of proposed reforestation shall either be planted with larger caliper stock or split-rail fencing shall be used around the perimeter of areas planted with seedlings. Details for the fencing or large caliper stock will be shown on the TCPII.
8. An automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.
9. Total development within the subject property shall be limited to 125,000 square feet of light industrial space, or equivalent development which generates no more than 108 AM and 108 PM peak hour vehicle trips. Any development generating an impact greater than that identified herein shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
10. Prior to the issuance of any building permit on the subject property, the following improvements at the intersection of US 1 and Contee Road shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - A. Widen the eastbound Contee Road approach to provide five approach lanes: two left-turn lanes, two through lanes, and one right-turn lane.
 - B. Widen the westbound Contee Road approach to provide four approach lanes: two left-turn lanes, one through lane, and one right-turn lane.
 - C. Widen the southbound US 1 approach to provide an exclusive right-turn lane and a

second left-turn lane.

- D. Widen the northbound US 1 approach to provide a second left-turn lane.
 - E. Modify the signal phasing from split phasing to concurrent phasing on the Contee Road approaches.
11. Prior to the issuance of any building permit on the subject property, the following improvements at the intersection of Contee Road and Van Dusen Road shall (a) have full financial assurances, (b) have been permitted for construction and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
- A. Submit an acceptable traffic signal warrant study to DPW&T and, if necessary, SHA for the intersection of Contee Road and Van Dusen Road. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of DPW&T. If the signal or other needed improvements at that intersection are deemed warranted by DPW&T, the applicant shall bond the signal or other improvements prior to the release of any building permits within the subject property and install the warranted improvements at a time when directed by the appropriate permitting agency. The need to submit a study may be waived by DPW&T if that agency determines that sufficient recent studies have been conducted.
 - B. Modify the westbound Van Dusen Road approach to operate as a shared right-through lane and an exclusive left-turn lane.
 - C. Modify the eastbound Van Dusen Road approach to provide an exclusive right-turn lane.
 - D. Modify the northbound Contee Road approach to provide an exclusive right-turn lane.

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 subject property is located on the north side of Contee Road approximately 1,100 feet west of US 1.
- 3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	I-1	I-1
Use(s)	Vacant	Industrial Use/120,800 sq.ft
Acreage	10.80	10.80
Parcels	2	1

4. **Environmental**—This property is subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet, and there are more than 10,000 square feet of existing woodland on-site. The Environmental Planning Section in conjunction with Detailed Site Plan (DSP) SP-90065 previously reviewed this site. A Type I (TCPI/93/90) and II Tree Conservation Plan were approved with the site plan that subsequently expired. An approved TCPI remains valid and does not expire with the companion DSP. TCPI/93/90 has been revised to reflect the proposed development. The Environmental Planning Section recommends approval of TCPI/93/90-01 subject to conditions.

This 10.75-acre property has a 15 percent Woodland Conservation Threshold of 1.61 acres and replacement requirements of 4.88 acres for a total requirement of 4.88 acres. The requirement for this property is to be satisfied by 1.33 acres of on-site reforestation and 3.55 acres of off-site mitigation.

To ensure the long-term survival of the proposed reforestation areas, either larger caliper stock should be used or seedlings may be used if they are protected with split-rail fencing. It should be noted that any areas subject to the bufferyard requirements of the *Landscape Manual* will be subject to a larger caliper stock requirement. The use of larger caliper stock or split-rail fencing around areas of seedlings will be determined at time of Type II Tree Conservation Plan review.

A review of the available information indicates that streams, 100-year floodplain and wetlands are not found to occur on the property. No transportation-related noise impacts have been found to impact this property. The soils found to occur according to the Prince George’s County Soil Survey include soils in the Beltsville, Christiana, Matapeake, Gravel Pit, Murkirk and Woodstown series. The Beltsville, Christiana and Matapeake soils are considered highly erodible. The Christiana soils also have limitations of high shrink-swell potential. The Gravel Pit soils may have limitations of instability for foundations. The Murkirk and Woodstown soils pose few difficulties for development. According to available information, Marlboro clay is not found to occur on this property.

According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. This property is located in the Upper Patuxent watershed of the Patuxent River basin.

5. **Community Planning**—The property is located within the limits of the 1990 Master Plan for Subregion I, in Planning Area 60 in the Northwestern Area. The property is located south and west of the City of Laurel. The General Plan locates the property in the Developing Tier. The

master plan land-use recommendation for the property is for light industrial uses. The proposed subdivision is consistent with the recommendations of the master plan and the General Plan.

6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, the proposed subdivision is exempt from the requirement of the mandatory dedication of parkland because the property is nonresidentially zoned.
7. **Trails**—The Adopted and Approved Subregion I Master Plan recommends a Class II trail along the subject property's frontage with Contee Road. This trail will connect to a planned trail along US 1 and a trail running through the adjacent property to Laurel Lakes. This trail will safely accommodate pedestrians between the communities around Laurel Lakes and the commercial uses along the busy US 1 corridor. The trail would be in place of a standard sidewalk.
8. **Transportation**—The applicant has submitted a traffic study dated September 2002. The findings and recommendations outlined below are based upon a review of these 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*. The study has been referred to the appropriate operating agencies including the City of Laurel.

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.

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.

The applicant has prepared a traffic impact study in support of the application using new counts taken in August 2002 (the counts were taken during the last week of August when county schools were in session). With the development of the subject property, the traffic consultant has determined that adequate transportation facilities in the area can be attained. The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections:

US 1/Contee Road
Contee Road/Van Dusen Road (unsignalized)
Contee Road/site entrance (unsignalized)

The following conditions exist at the critical intersections:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
US 1/Contee Road	1, 36 9	1, 48 3	D	E
Contee Road/Van Dusen Road	+999*	+999*	--	--
Contee Road/site entrance		Future	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Ten approved developments were identified in the immediate area, including three within the City of Laurel. Traffic along US 1 includes a factor of one percent annually to account for growth in through traffic. The traffic study assumes no funded capital improvements within the study area, but it does assume developer-funded improvements at the intersection of US 1 and Contee Road. Given these assumptions, the following background traffic conditions were determined:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
US 1/Contee Road	1, 44 8	1, 31 4	D	D
Contee Road/Van Dusen Road	+999*	+999*	--	--
Contee Road/site entrance		Future	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

The applicant proposes an industrial subdivision that will result in 125,000 square feet of light industrial space. The light industrial space would generate 108 AM peak-hour trips (87 in, 21 out) and 108 PM peak-hour trips (21 in, 87 out). With site traffic, the following operating conditions were determined:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
US 1/Contee Road	1, 46 0	1, 31 9	E	D

Contee Road/Van Dusen Road	+999*	+999*	--	--
Contee Road/site entrance	23 .5 *	30 .1 *	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

The traffic identifies inadequacies within the immediate study area that would require off-site transportation conditions.

The intersection of Contee Road and Van Dusen Road operates unacceptably as an unsignalized intersection under existing, background, and total future traffic. If signalized in its current configuration, this intersection would operate at LOS D in the AM peak hour but at LOS F in the PM peak hour. Therefore, the traffic study recommends signalization, and modification of the southbound Van Dusen Road approach to provide right-turn lanes on the eastbound Van Dusen Road approach and on the northbound Contee Road approach. Additionally, the westbound Van Dusen Road approach must be modified to provide an exclusive left-turn lane and a shared through/right-turn lane. With this lane configuration and signalization, the intersection would operate at LOS C with a CLV of 1,166 in the AM peak hour, and at LOS D with a CLV of 1,436 in the PM peak hour under total traffic.

The US 1/Contee Road intersection operates unacceptably in at least one peak hour with the lane configuration that is assumed. The traffic study mentions that the east leg of the intersection, westbound Contee Road, would provide four approach lanes, the study analysis assumes two through lanes and a left-turn lane while the text cites one through lane and two left-turn lanes. If the westbound approach were to be redesigned to include one right-turn, one through, and two left-turn lanes, under total traffic the intersection would operate at LOS C with a CLV of 1,298 in the AM peak hour, and at LOS 1,288 with a CLV of C in the PM peak hour. Although this improvement is assumed to be bonded and funded for construction in the traffic impact study, at last contact with the State Highway Administration, the improvements are not yet financially guaranteed, although plans are under active review and bonding will likely occur shortly. Therefore, consistent with the Planning Board’s normal procedures for considering privately funded improvements, the recommendations include the entire list of improvements at the US 1/Contee Road intersection.

SHA reviewed the traffic study, and SHA commented that a second westbound left-turn lane at the US 1/Contee Road intersection would be needed to allow for adequate traffic operations. This is consistent with the recommendation provided above.

Contee Road is a master plan arterial facility. The current plan allows for sufficient right-of-way consistent with master plan recommendations to be dedicated, consistent with county right-of-way plats no. 1424-1426.

A single driveway for access onto Contee Road is proposed. Given that there are no other alternatives available for access onto this arterial facility, the variation request for site access onto

the arterial is very supportable from the standpoint of transportation. There are no issues involved with granting the variation.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of 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) and concluded that the subdivision is exempt from APF test for schools because it is a commercial use.
10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities and concluded the following:
 - a. The existing fire engine service at Laurel Fire Station, Company 10, located at 7411 Cherry Lane, has a service travel time of 2.65 minutes, which is within the 3.25-minute travel time guideline.
 - b. The existing ambulance service at Laurel Rescue Squad, Company 49, located at 14910 Bowie Road, has a service travel time of 4.22 minutes, which is within the 4.25-minute travel time guideline.
 - c. The existing paramedic service at Laurel Rescue Squad, Company 49, located at 14910 Bowie Road, has a service travel time of 4.22 minutes, which is within the 7.25-minute travel time guideline.
 - d. The existing ladder truck service at Beltsville Fire Station, Company 31, located at 4911 Prince Georges Avenue, has a service travel time of 6.49 minutes, which is beyond the 4.25-minute travel time guideline.

The above 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*. In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/ EMS Department determines that an alternative method of fire suppression is appropriate.

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, the existing county police facilities will be adequate to serve the proposed Marlo III development. This police facility will adequately serve the population generated by the proposed subdivision.

The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet

per officer. As of 6/30/2002, the county had 874 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for additional 69 sworn personnel

12. **Health Department**—The Health Department notes that numerous tires were found on the property. The tires must be hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility and a receipt for tire disposal must be submitted to the Health Department. All other trash must be removed and properly discarded.
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, #13452-2003-00, 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.
14. **Variation to Section 24-121**^{3/4} The applicant proposes access via Contee Road, a master plan arterial facility with an ultimate right-of-way width of 120 feet. Section 24-121(a)(3) of the Subdivision Regulations limits direct vehicular access to an arterial roadway by requiring lots adjoining arterials to have frontage on and access to an interior street or service road. Because of the size of the property and the applicant's proposed layout of development, the applicant has not proposed an internal public street or service road. To do so could jeopardize the applicant's ability to develop the property as desired. Therefore, a variation is required to allow direct vehicular access to Contee Road.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

- (1) *The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;*

Contee Road is a county road. Access permits will be required by the Department of Public Works and Transportation (DPW&T) to ensure conformance to the county's Road Code and protect the public safety at the site entrance. A traffic light on Contee Road at US 1 east of the site entrance will slow and stop traffic to allow for safe ingress and egress from the site.

- (2) *The Conditions on which the variation is based are unique to the property for*

which the variation is sought and are not applicable generally to other properties;

The subject property's sole frontage on a dedicated public street and its only opportunity for vehicular access is via Contee Road. If access were to be denied to Contee Road, the site could not develop as proposed.

- (3) *The variation does not constitute a violation of any other applicable law, ordinance, or regulation;*

The variation request does not violate any other laws, ordinances or regulations. The applicant must obtain approval from DPW&T for access to Contee Road, a county-maintained road.

- (4) *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if strict letter of these regulations is carried out;*

The surrounding properties are generally undeveloped without other opportunity for access. To deny access to Contee Road would deny all use of the property as proposed and would constitute a particular hardship and not a mere inconvenience on the property owner.

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.

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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 Harley, with Commissioners Lowe, Harley, Vaughns, Eley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, September 25, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of October 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk