

R E S O L U T I O N

WHEREAS, John R. Keech is the owner of a 25.82-acre parcel of land known as Marlboro Crossing, Parcels 15, 121 and 134, Tax Map 127, Grid A-4, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on June 27, 2003, Chesapeake Custom Homes filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 40 lots and 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-03061 for Marlboro Crossing 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 December 4, 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 December 4, 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/46/03), and further APPROVED Preliminary Plan of Subdivision 4-03061, Marlboro Crossing for Lots 1-40 and Parcels A and B with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
  - a. To provide the land area of Parcels A and B.
  - b. To increase the lot area of Lot 1 at the intersection of Frank Tippet Road and Sarah Landing Lane by 9,384± square feet or adjust the lot sizes of Lots 1, 2 and 3 to increase the size of Lot 1.
  - c. To provide a note that direct vehicular access to Frank Tippet Road is not permitted from Lot 1.
  - d. To show the stream.
  - e. To remove any impact to the expanded buffer.

2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
3. Prior to the issuance of grading permits, a limited detailed site plan shall be approved by the Planning Board or its designee for Parcels A and B to ensure pleasing views from adjoining properties of the stormwater management facilities located on these parcels. Review may include review of landscaping, screening and ornamental fencing as deemed appropriate.
4. Prior to approval of the final plat of subdivision, the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication.
5. Prior to building permits, the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
6. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) Parcels A and B. Land to be conveyed shall be subject the following:
  - a. Conveyance shall take place prior to the issuance of building permits.
  - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
  - c. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
  - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
  - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures; tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements required by the approval process.
  - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. The Planning Board or its designee shall be satisfied that there are adequate provisions to

assure retention and future maintenance of the property to be conveyed.

7. Development of this property shall be in accordance with the approved Stormwater Management Concept Plan, #7469-2003-00.
8. The final plat shall carry a note that direct vehicular access to Frank Tippet Road from Lot 1 is denied.
9. Prior to signature approval of the preliminary plan of subdivision, the applicant, his heirs, successors and/or assignees shall submit a copy of the executed agreement for the lot line adjustment land swap between Parcels 121, 15 and 134 consistent with the approved preliminary plan of subdivision.
10. At the time of final plat, the applicant, his heirs, successors and/or assignees shall submit a copy of the recorded deed for the lot line adjustment land swap between Parcels 121, 15 and 134 consistent with the approved preliminary plan of subdivision.
11. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."
12. Prior to signature approval of the Preliminary Plan of Subdivision, the Forest Stand Delineation shall be revised to correct the forest stand boundary.
13. 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/46/03), 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."
14. Prior to signature approval of the Type I Tree Conservation Plan, the plan shall be revised:
  - a. To show the stream on the plan and in the legend.
  - b. To show the limit of disturbance on the plan and in the legend.
  - c. To show clearing of mature Virginia pine woodland on all residential lots.
  - d. To remove the soils boundaries.
  - e. To revise the plan and worksheet as necessary.

- f. To have the revised plan signed and dated by the qualified professional.
- g. To eliminate all impacts to sensitive environmental features.

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 northwest side of MD 301 approximately 700 feet north of its intersection with Frank Tippet Road in the Rosaryville Community.
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)	Vacant	Single-family dwellings
Acreage	25.82	25.82
Lots	0	40
Parcels	1 and Part of 2	2
Dwelling Units:		
Detached	0	40

4. **Environmental**—This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in size and it has more than 10,000 square feet of woodland. A Forest Stand Delineation (FSD) showing 29 sample areas, 2 forest stands and 8 specimen trees has been reviewed. The FSD covers an area slightly larger than the Tree Conservation Plan and includes four specimen trees not on the subject application. An examination of recent and historic air photos suggests that there are two distinct forest stands on the site; however, the boundary shown on the FSD is significantly different. Forest Stand #1 appears to be unchanged from 1938 and Forest Stand #2 has grown in areas that were fields in 1938. The area of mature Virginia pine should be carefully delineated on the FSD because it is not a species desirable for preservation on the Tree Conservation Plan. A revised FSD was requested in the memorandum dated July 14, 2003, but none has been submitted. The Forest Stand Delineation should be revised to correct the forest stand boundary. The FSD notes a large area of mature Virginia pine. Because of susceptibility to blowdown, Virginia pine stands are not suited as woodland conservation areas near any structures or in any residential yards.

The *Subregion VI Master Plan* shows a small area of Natural Reserve on the property. This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. A wetlands study was submitted, which indicates a narrow area of wetlands and an associated stream. The Preliminary Plan and Type I Tree Conservation Plan show the wetlands and minimum 25-foot wetland buffer; however, the stream is not shown and should be delineated on the preliminary plan and tree conservation plan.

The plan as submitted proposes impacts to the stream buffers. Impacts to these buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. No variation requests were submitted. The proposed stormwater management pond on Parcel A and the proposed stormdrain on Parcel A and Lot 34 impact wetland buffers and stream buffers. The applicant has stated that the preliminary plan and the TCPI plan are to be revised to remove any impacts prior to signature approval of either plan. The applicant is not proposing any disturbances and has therefore not submitted a request for the approval of variations for these impacts.

All disturbance not essential to the development of the site as a whole is prohibited within stream and wetland buffers. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), streets and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare. Impacts for essential development features require variations to the Subdivision Regulations.

Although there is no limit of disturbance shown on the TCPI, it appears that clearing is proposed on Lot 34 and Parcel A within the stream buffer. This clearing appears to be only for the grading of the lot and the stormwater management pond. Because no variation requests were submitted, the plan cannot be approved with any impacts.

The applicant was notified that it appeared that impacts may be necessary but no variations were submitted. The applicant stated that all impacts were to be removed and would not be necessary to serve the development. The applicant was advised that impacts to these environmental features require the approval of a variation that can only be obtained through the subdivision process. Variations can only be approved by the Planning Board in association with a preliminary plan of subdivision. The applicant indicated that they are fully aware of the requirement for the approval of a variation for the impacts to the expanded buffer if proposed and will be revising the preliminary plan to remove any impacts.

There is a stream and associated wetlands on the property that drain into Piscataway Creek in the Potomac River watershed. There is no 100-year floodplain on the property. Current air photos indicate that most of the site is forested. There are no severe slopes or steep slopes associated with highly erodible soils on the property. The Subregion VI Master Plan shows a small area of Natural Reserve on the property. No scenic or historic roads are affected by this proposal. 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. The site is in the Developing Tier according to the adopted General Plan.

US 301 is a nearby source of traffic-generated noise. The noise model used by the Environmental Planning Section predicts that the 65 dBA (Ldn) noise contour is 531 feet from the centerline of US 301. The centerline of US 301 is shown on the revised Preliminary Plan. The revised plan shows the unmitigated 65 dBA (Ldn) noise contour. Minimal portions of the rear yards of proposed Lots 11 and 12 may be impacted by noise. These areas are proposed as woodland conservation areas.

The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Beltsville, Galestown, Rumford and Sassafras series. Marlboro Clay does not occur in this area. This information is provided for the applicant's benefit. No further action is needed as it relates to this preliminary plan of subdivision review. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review

5. **Community Planning**—The subject property is located within the limits of the 1993 Subregion VI Study Area Master Plan, Planning Area 82A in the Rosaryville Community. The 2002 General Plan locates the property within the Developing Tier. The master plan land use recommendation for the property is for lot-suburban residential development. The proposed subdivision is consistent with the recommendation of the master plan and General Plan.
6. **Parks and Recreation**—In accordance with Section 240134(a) of the Subdivision Regulations, the Park Planning and Development Division recommends the payment of a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.
7. **Trails**—Frank Tippet Road is designated as a master plan bikeway in the Adopted and Approved Subregion VI Master Plan. However, due to the very limited amount of road frontage, no recommendations are made regarding this designation. There are no master plan trail issues associated with this application.
8. **Transportation**—The proposed development would generate 30 AM and 36 PM peak-hour trips as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals (revised 2002)*. While the subject property fronts both US 301 and Frank Tippet Road, all of the site access will be limited to Frank Tippet Road and Sarah Landing Drive. Approximately 40 percent of the site-generated trips will be oriented to points to and from the

west, while 60 percent of the trips will be oriented to US 301. Specifically, 60 percent of the traffic generated by the proposed plan would impact the signalized intersection of US 301/Frank Tippet Road. This intersection is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

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. An analysis of a recent traffic count revealed an existing level of service of A/820 and D/1,344 during the AM and PM peak hours, respectively. Adequate transportation facilities 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 public 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 the following:

Finding:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	40 sfd	40 sfd	40 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	9.60	2.40	4.80
Actual Enrollment	5,416	4,896	9,660
Completion Enrollment	281	197	393
Wait Enrollment	604	225	451
Cumulative Enrollment	30.96	33.42	66.84
Total Enrollment	6,341.56	5,353.82	10,575.64
State Rated Capacity	5,364	4,638	8,770
Percent Capacity	118.22%	115.43%	120.59%
Funded School	N/A	N/A	N/A

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts on existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

The school surcharge may be used for the construction of additional school facilities, which are expected to accommodate the new students that will be generated by this development proposal. The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies of Section 24-122.02, CB-30-2003 and CB-31-2003.

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 Marlboro Fire Station, Company 45, located at 7710 Croom Road, has a service travel time of 6.25 minutes, which is beyond the 5.25-minute travel time guideline.
- b. The existing ambulance service at Marlboro Fire Station, Company 45, located at 7710 Croom Road, has a service travel time of 6.25 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road, has a service travel time of 7.25 minutes, which is within the 7.25-minute travel time guideline.

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*. To alleviate the negative impact on fire and rescue services due to the inadequate service discussed, the Fire Department requires that all residential structures be fully sprinklered in accordance with National Fire Protection Association Standard 13D and all applicable Prince George's County laws. Since this is a matter of existing law, no condition is necessary.

11. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. In accordance with Section 24-122.1(c) of the Subdivision Regulations, the existing county police facilities will be adequate to serve the proposed Marlboro Crossing 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 June 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 an additional 69 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.

12. **Health Department**—The Health Department has no comment.



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, #7469-2003-00, 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. **Historic**<sup>3/4</sup> The property adjoins Historic Site 82A-42-21, Cheltenham Methodist Church (Parcel 134). A land swap with the church is proposed that would give the historic site additional property immediately north of the church building, buffering the proposed subdivision.

The Cheltenham Methodist Church is a handsome, front-gabled frame church building with a three-story centered-entry bell tower, round-arch windows and board-and-batten siding. There is a historic graveyard to the north and east of the church. The church was built in 1879 on land deeded by Julius H. Pyles from his nearby Westwood farm property. The bell tower was added in 1913 and a classroom wing in 1945. The church is a good example of late nineteenth-century rural church architecture, unusual for its board-and-batten siding.

The Environmental Setting of the Cheltenham Methodist Church Historic Site is Parcel 134 (Tax Map 127), 2.276 acres on which are located the historic church and its graveyard. In addition to Parcel 134, Cheltenham Methodist Church owns Parcel 15, adjoining the church property on the southwest and fronting on Frank Tippet Road. This subdivision plan assumes a land swap between the applicant and the church, whereby the church would acquire approximately 2.15 acres of Parcel 121 with access to US 301, and the applicant would acquire the northwesternmost 27,355 square feet of Parcel 15 with access to Frank Tippet Road. The property gained by the church by this land swap would adjoin and wrap around Parcel 134 on the north, northeast and northwest, providing a buffer from the proposed subdivision.

The Environmental Setting of a Historic Site is defined in the Prince George's County Historic Preservation Ordinance (Subtitle 29, Section 29-102) as "the entire parcel of land, within those boundaries existing as of the date the historic resource is delineated on the master plan for historic preservation, and structures thereon, on which is located a historic resource, unless otherwise specified on such master plan, or unless reduced by the Commission . . ."

The Cheltenham Methodist Church was designated as a Historic Site by vote of the Historic Preservation Commission in April 1986, with Parcel 134 as its Environmental Setting. Even if the land swap results in an increase in the size of the parcel of land on which the Historic Site is located, the Environmental Setting of the Cheltenham Methodist Church will remain that property within the 1986 boundaries of Parcel 134. Therefore, technically, the developing property would not directly adjoin the Environmental Setting of the church, and the 40-foot D buffer (required by the Prince George's County *Landscape Manual* for any developing property adjoining a Historic Site) would not be required. The wooded property gained by the church would serve as a protective buffer for the Historic Site.

It would be possible for the trustees of the Cheltenham United Methodist Church to request a

redetermination by the Historic Preservation Commission of the Environmental Setting of the Historic Site, i.e., to increase the setting to include not only Parcel 134 but also the adjoining land to be acquired by the land swap, bringing the total acreage of a new Environmental Setting to 4.4 acres. If such a redetermination should take place, then the developing property would directly adjoin the Environmental Setting of the Historic Site, and the *Landscape Manual* would require a 40-foot D buffer along the subject property's common boundary with the Historic Site (proposed Lots 8 through 11). If the land swap occurs as proposed and if the Environmental Setting of the Historic Site is not changed, no buffering of the Historic Site will be required on the developing property.

15. The subject property is located on Tax Map 127 in Grid A-4 and is known as Parcel 121 and part of Parcels 15 and 134. The applicant has proposed a lot line adjustment land swap with the Cheltenham United Methodist Church, the owner of both Parcels 15 and 134. Parcels 15 and 134 are located to the south and southwest of Parcel 121. The lot line adjustment has not occurred at this time and is not a subject of this application. The parties would like to secure a preliminary plan approval prior to executing a deed(s) for the lot line adjustment.

Section 24-107(c) (9) of the Subdivision Regulations provides for the deed adjustment of a parcel line between two abutting properties without the requirement of a preliminary plan of subdivision if no additional parcels are created. In general the lot line adjustment deed should precede a preliminary plan of subdivision. If the lot line adjustment deed were not performed consistent with the proposed preliminary plan of subdivision, a new preliminary plan would be required. Staff has proceeded with this application based on the desire of the parties to base the land swap on an approval of the Planning Board. An executed lot line adjustment agreement should be submitted prior to the signature approval of the preliminary plan of subdivision, and the executed agreement should be submitted at the time of final plat.

One portion of the land swap will adjust the parcel line between Parcel 121 and Parcel 134 and would benefit the Cheltenham United Methodist Church. Currently Parcel 134 contains the historic Cheltenham Church, Site 82A-42-21. The parties propose to increase the size of existing Parcel 134 to increase the buffer areas (setbacks) for the church from development on abutting parcels. Staff notes that this would not increase the existing environmental setting for the church as discussed further in Finding 12 of this report.

The remaining portion of the land swap would adjust the parcel line between Parcel 121 and Parcel 15. Unlike Parcel 121, Parcel 15 has street frontage along Frank Tippet Road. The lot line adjustment would benefit the applicant and provide the new configuration of Parcel 121 with 189 linear feet of street frontage along Frank Tippet Road.

16. **Limited Detailed Site Plan** - The applicant has proposed two parcels to be utilized for stormwater management. Parcels A and B are proposed to be conveyed to a homeowners association. Parcel A is located near the entrance of the subdivision, north of Frank Tippet Road, and should be highly visible from the internal public street. The facility proposed on this parcel will also be in close proximity to the dwellings proposed on the adjoining lots. Staff would recommend that a limited detailed site plan (LDSP) be approved for the stormwater facility on

Parcel A to ensure that pleasing views and appropriate treatments are provided to enhance the stormwater management facility's appearance. The second stormwater facility on Parcel B may not be highly visible from the internal public street and proposed dwellings because of the location of proposed tree conservation in the vicinity of the pond. However, the facility located on Parcel B is located in close proximity to the property line in the southwest corner of the site, and staff has concerns about the visibility of this stormwater facility from the Cheltenham Woods Subdivision to the east. Parcel B will be cleared up to the property line abutting the Cheltenham Woods Subdivision and could be highly visible from that community. Staff recommends that a LDSP be approved for Parcel B to ensure that pleasing views and appropriate treatments are provided to enhance the stormwater management facility's appearance from all adjoining properties.

Several of the lots in the vicinity of Parcel B exceed the minimum lot size of 20,000 square feet. Specifically, Lots 11, 12 and 13 together exceed the minimum lot size by 6,191 square feet. Staff would recommend that the size of Parcel B be increased to provide for the relocation of the pond on Parcel B, to the west. This may allow for the pond to shift away from the common property line with the Cheltenham Woods Subdivision and increase the opportunity for buffering and appropriate landscaping along that property line. The relocation may provide for an additional 20 to 30 feet in setback that may be utilized for landscaping and buffering.

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 Vaughns, seconded by Commissioner Eley, with Commissioners Vaughns, Eley, Squire, Harley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, December 4, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 8th day of January 2004.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:WC:meg