

## R E S O L U T I O N

WHEREAS, Thorne Family Trust is the owner of a 74.97-acre parcel of land known as Parcels 58, 59 and Tax Map 92, Grid A-4, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on September 29, 2004, Oxbridge Development and Ritchie Marlboro, LLC filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 108 lots and 4 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04151 for Marlboro Point Cluster 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 9, 2004, 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 9, 2004, 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/27/04), and APPROVED Variations from Section 24-121 and 24-137(g) (9), and further APPROVED Preliminary Plan of Subdivision 4-04151, Marlboro Point Cluster for Lots 1-13, Block A; Lots 1-17, Block B; Lots 1-10, Block C; Lots 1-16, Block D; Lots 1-10, Block E; Lots 1-14, Block F; Lots 1-28, Block G and Parcel A-D with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
  - a. Indicate that the standard lot width at the front building line in this case in the R-R Zone is 80 feet (public water and sewer).
  - b. Indicate lot dimensions.
  - c. Label 150-foot lot depth.
  - d. Width of all streets and indicate public.

- e. Indicate mitigated and unmitigated 65 dBA Ldn.
  - f. Label centerline and ultimate right-of-way of Ritchie Marlboro Road.
  - g. Note the Historic Resource 79-000-36, Site of the Navajo Tenant House, on the plan and in the general notes.
  - h. Revise applicant Exhibit A (25 percent slopes exhibit) to reflect 8.63 acres total of severe slopes; 2.16 isolated manmade slopes (Area A + Ritchie Marlboro Road); 6.48 acres remaining; 1.62 acres remaining area; 1.67 total area of severe slopes exclusive of Area A + Ritchie Marlboro Road; and remove "Note."
- 2. Prior to signature approval of the preliminary plan, a conceptual site plan shall be submitted consistent with the preliminary plan approved by the Planning Board.
  - 3. In conformance with the adopted and approved Melwood-Westphalia Master Plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
    - a. A trail connection from the subject site to the existing master plan trail on the adjacent M-NCPPC land at a location agreeable to the Department of Parks and Recreation.
    - b. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.
  - 4. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan No. 35758-2003-00, and any subsequent revisions.
  - 5. Prior to the issuance of grading permits, the applicant shall submit a manifest demonstrating that the fuel storage tanks located on the property have been properly disposed of by a licensed waste company and reclamation of any contaminated soils has occurred under the direction of the Health Department.
  - 6. 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.
  - 7. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with DPW&T:
    - a. The applicant shall provide frontage improvements for two lanes of traffic on northbound Ritchie Marlboro Road and provide left turn lanes at the two proposed access points on southbound Ritchie Marlboro Road. Frontage improvements will include any necessary

acceleration and deceleration lanes and safety improvements required by DPW&T along Ritchie Marlboro Road.

- b. The applicant shall conduct a traffic signal warrant study at the intersection of Ritchie Marlboro Road and Westphalia Road. If a traffic signal is deemed warranted by DPW&T, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by DPW&T. The applicant will be responsible for any additional pavement markings and signage at the intersection.
  - c. The applicant shall provide geometric improvements at the intersection of Ritchie Marlboro Road and Westphalia Road to include a northbound left turn lane from Ritchie Marlboro Road onto Westphalia Road. The applicant will be responsible for any additional required pavement markings and signage at the intersection.
- 8. At the time of final plat approval, the applicant shall dedicate right-of-way along Ritchie Marlboro Road of 60 feet from the master plan right-of-way centerline of pavement.
  - 9. Prior to signature approval of the preliminary plan, it shall be revised to show a 60-foot right-of-way along Street A, between Ritchie Marlboro Road and Street B, and a 60 foot right-of-way along Street C, between Ritchie Marlboro Road and Street B. The additional rights-of-way shall not be accommodated with easements on individual lots and may result in a loss of lots.
  - 10. 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.
  - 11. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFAs) to DRD for approval prior to the submission of final plats, for construction of private on-site recreational facilities on homeowners land. Upon approval by DRD, the RFA shall be recorded among the County Land Records.
  - 12. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on homeowners land. Recreational facilities shall conform to the *Parks and Recreation Facilities Guidelines*.
  - 13. The applicant, his heirs, successors and/or assignees shall to the Park Planning and Development Division submit three original recreational facilities agreements (RFAs) for construction of recreational trail facilities on park property. The RFA shall be approved prior to the approval of final plats. Upon approval by the PP&D Division, the RFA shall be recorded among the County Land Records and noted on the final plat of subdivision.
  - 14. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of

credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on park property (M-NCPPC).

15. Prior the issuance of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 30.02 acres of cluster open space land (Parcels A–D). 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 stormdrain 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. Stormdrain 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. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. 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.
16. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/27/04). The following notes shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/27/04), 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.”

17. The Type II tree conservation plan planting schedule shall include a mixture of plant sizes for all reforestation areas within 100 feet of residential lot lines. At a minimum, the planting schedule shall provide at least 35 percent of the planting stock as being one- to two-inch caliper trees. The planting schedule for afforestation areas more than 100 feet from lot lines shall provide at least 10 percent of the planting stock at one-inch caliper or greater.
18. All afforestation areas abutting residential lot lines shall be fenced with permanent fencing such as split-rail fencing or the equivalent prior to the issuance of the use and occupancy permit for the adjacent lots. All required fencing shall be shown on the TCPII and a detail of the fencing shall be provided.
19. Prior to submittal of the detailed site plan, the applicant shall meet with the Environmental Planning Section to evaluate alternatives that may allow for a reduction in the extent of the proposed PMA impacts associated with the widening of Ritchie Road and the construction of proposed Street B. Those alternatives determined to be feasible shall then be incorporated into the detailed site plan.
20. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area, except for areas with approved impacts, and shall be reviewed by the Environmental Planning Section prior to certificate approval for accuracy. In addition, 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 permitted.”
21. Prior to the issuance of any permits that impact wetlands, wetland buffers, streams or Waters of the U.S., copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans shall be submitted to the M-NCPPC, Planning Department.
22. Prior to the issuance of any permits, the Type II tree conservation plan and the technical stormwater management plan shall be consistent. A copy of the approved technical stormwater management plan shall be submitted to the Environmental Planning Section for inclusion in the TCPII file prior to the issuance of any grading permits. In the event the TCPII and technical stormwater management plans are not consistent one or both plans shall be revised as necessary prior to the issuance of the grading permits.

23. Prior to approval of the detailed site plan, the geotechnical engineer shall sign a statement on the detailed site plan indicating that the site grading has mitigated all potential slope failure areas and that there are no slopes with a slope safety factor of less than 1.5 located on any portion of any residential lot.
24. As part of the detailed site plan submittal, a Phase II noise study shall be submitted addressing the proposed noise attenuation measures necessary for the mitigation of transportation-related noise impacts for proposed lots located within 170 feet of the centerline of Ritchie Road. All mitigation measures and areas of disturbance for installation of noise attenuation measures shall be shown on the detailed site plan and Type II tree conservation plan, on HOA lands. Any lots where interior and/or exterior noise levels cannot be mitigated to meet the state noise standards shall be eliminated.
25. The following certification shall be placed on all building permits and shall be signed and dated by an engineer with expertise in acoustical engineering: "The construction shown on this building permit has been evaluated and will result in interior noise levels of 45 dBA Ldn or less."
26. The detailed site plan shall address the specific landscape treatments proposed for the 40-foot scenic easement and show how those treatments are coordinated with the proposed noise attenuation measures.
27. At time of detailed site plan, the applicant shall reduce the disturbance of naturally occurring slopes to 1.62 acres (25 percent) or by a minimum of 2,178 square feet. Additional opportunities to reduce the amount of severe slopes disturbed shall be explored and implemented by the applicant's engineer and reviewed by applicable agencies.
28. In accordance with Part III, Division 9 of the Zoning Ordinance, a detailed site plan shall be approved prior to final plat approval. A Type II tree conservation plan shall be approved at the time of approval of the DSP.
29. The applicant shall submit a complete Phase I investigation with the application for DSP that shall include research into the property history and archeological literature, approximate dates, condition and character, as well as digital photographs of the buildings labeled "to be removed." At the time of review of the DSP, the applicant shall submit Phase II and Phase III investigations as determined by Planning Department staff as needed. Depending on the results of any study required, the Historic Preservation staff may schedule a hearing before the Historic Preservation Commission to evaluate Historic Resource 79-000-36 and/or require a historic marker or other interpretive devices be placed at the site. The plan shall provide for the avoidance and preservation of the resources in place or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines. Grading permits may be issued for areas not subject to a Phase I archeological investigation, subject to the required order of approvals.

30. The applicant, his successors and/or assignees, shall provide adequate, private and public recreational facilities in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*. If wet areas must be traversed, suitable structures shall be constructed to assure dry passage along the trail.
31. The applicant shall allocate appropriate and developable areas for the private recreational facilities on homeowners association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of DRD for adequacy and property siting at the time of review of the detailed site plan.
32. The applicant, his successors and/or assignees shall construct an eight-foot-wide asphalt trail, connecting the subject property to the existing trail system in the adjoining King's Grant Community Park.
33. The applicant, his successors and/or assignees, with submission of the detailed site plan, shall submit construction drawings for the construction of the trail on adjacent parkland for DPR review and approval. The DSP shall include a grading plan, limit of disturbance, and construction details for trail construction on park property. The location of the trail shall be staked in the field and approved by DPR prior to construction. All trails shall be constructed to assured dry passage. If wet areas must be traversed, suitable structures shall be constructed to assure dry passage along the trail. Review shall include a determination of appropriate triggers for construction of the trail.

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 on the east side of Ritchie Marlboro Road, approximately 700 feet southeast of Foyett Lane and 2,100 feet north of its intersection with Old Marlboro Pike.
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)	Agricultural	Single-Family Residential
Acreage	74.97	74.97
Lots	0	108
Parcels	1	4
Dwelling Units:		
Detached	0	108

4. **Cluster Regulations Section 24-137**—Purposes of cluster development are to permit a procedure for development that will result in improved living environments; promote more economic

subdivision layout; encourage a variety of designs of dwellings; encourage ingenuity and originality in total subdivision layout and individual site and building design; encourage compatibility with surrounding properties; preserve open space to serve recreational, scenic, and public service purposes within the densities established for the cluster net tract area. To achieve these purposes:

- (1) Modifications in net lot areas, lot coverages, frontages, and yards are permitted;
- (2) Procedures are established to assure adequate maintenance and restricted use of open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public use; ann
- (3) Procedures are established to assure protection of existing and potential developments adjoining cluster developments.

Modification of yard, frontage, lot coverage, and net lot area requirements may be permitted by the Planning Board in accordance with the pertinent provisions of the Zoning Ordinance for lots within the interior of the cluster subdivision and cannot be modified for lots at entrances to cluster developments unless a combination of cluster open space and lot areas will result in development that appears to have occurred without approval of modified development regulations. The proposed preliminary plan conforms to these requirements as demonstrated in Finding 3 of this report and as demonstrated in applicant's Exhibit 1, which demonstrates that all of the lots along Ritchie Marlboro Road, when combined with the abutting homeowners open space land, results in lots that appear to be a minimum of 20,000 square feet in lot size. In addition, the applicant has proposed lot widths that are more consistent with the lot widths required for conventional R-R zoning standards of 80 feet.

In each zone allowing cluster development, the net lot area may be reduced from the general net lot area for that zone to a specified minimum net lot area for cluster development, subject to the restrictions. All such reductions will be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, for recreational or conservation purposes, or for schools, community buildings, or related uses. Improvements shall be limited to serving such purposes. Up to one-third of such net lot area reductions may be located either in a 100-year floodplain, or on land dedicated for a community building or school site, or for a stormwater management facility that provides scenic or recreational amenities for the community. Cluster open space does not include areas devoted to streets. The proposed preliminary plan is consistent with these requirements as demonstrated in Finding 3 of this report

The Subdivision Regulations require that through creative design and variety the subdivision will provide for a total environment better than that which would normally be achieved under standard regulations. The following are considerations when reviewing the preliminary plan:

- (1) Individual lots, buildings, streets, and parking areas will be designed and situated in conformance with the provisions for woodland conservation and tree preservation set forth in Subtitle 25 of the Prince George's County Code and in order to minimize alteration of the historic resource or natural site features to be preserved.



- (2) Cluster open space intended for a recreational or public use, conservation purposes, or as a buffer for a historic resource is appropriate, given its size, shape, topography, and location, and is suitable for the particular purpose it is to serve on the site.
- (3) Cluster open space will include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, steep slopes, individual trees of significant size, and rock outcroppings).
- (4) Cluster open space intended for a recreational or public use will be easily accessible to pedestrians; and the means of access will meet the needs of the physically handicapped and elderly.
- (5) Cluster open space intended for scenic value will achieve this purpose through the retention of those irreplaceable natural features described in paragraph (3) above; or where such natural features do not exist, such techniques as berms planted with trees and the use of landscaping materials may be required to eliminate visual monotony of the landscape.
- (6) Diversity and originality in lot layout and individual building design, orientation, and location will achieve the best possible relationship between development and the land.
- (7) Individual lots, buildings, parking areas, and streets will be arranged, designed, situated, and oriented so as to harmoniously relate to surrounding properties, to improve the view from dwellings, and to lessen the area devoted to motor vehicle access and circulation.
- (8) Individual lots, buildings, parking areas, and streets will be so situated and oriented as to avoid the adverse effects of shadows, noise, and traffic on, and afford privacy to, the residents of the site.
- (9) Not more than one-fourth of any land having slopes greater than 25 percent will be removed or altered, and then only when such slopes are isolated, small, or otherwise occur as insignificant knolls, so that the design of the development or cluster open space will not be adversely affected. See Finding 4 of this report, where the applicant has requested a variation to allow the disturbance of more than one-fourth of the 25 percent slopes on the property. This request is conditionally supported by staff and will not adversely affect the layout of the subdivision, and in fact improves the layout.
- (10) Appropriate landscaped screening techniques will be employed at each entrance to the subdivision and along adjoining existing streets, so as to assure the compatibility of the appearance of the cluster subdivision with that of surrounding existing and planned residential development not approved for cluster development, and to provide an attractive appearance from streets. Individual lots will also be appropriately landscaped in such a manner as to provide an attractive appearance. With the preliminary plan, adequate open space areas have been ensured to provide for appropriate landscaping.

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