

A M E N D E D   R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

\*WHEREAS, [in consideration of evidence presented at] a public hearing was held before the Planning Board on April 15, 200[3]4 regarding Detailed Site Plan DSP-03033 for East Marlton, Sections 18, 21 and 22, [the Planning Board finds:] and the Planning Board disapproved DSP-03033 and TCPII/143/03-01; and

\*WHEREAS, the applicant appealed the Planning Board's decision to the District Council to review the Detailed Site Plan SP-03033 for East Marlton, Sections 18, 21 and 22; and

\*WHEREAS, the District Council remanded the case to the Planning Board on November 22, 2004 to allow the applicant to revise and resubmit DSP-03033 concurrently with DSP-03035 to reflect the results of a negotiated agreement between the applicant and parties of record and to allow the staff to review the revised plans; and

\*WHEREAS, the Planning Board having considered evidence presented at a second hearing on the case held on April 21, 2005 and evaluated the issues contained in the Order of Remand, the Planning Board finds:

1. **Request:** The subject detailed site plan for infrastructure is for 396 single-family attached lots in the R-T Zone, on land known as Sections 18, 21 and 22 of East Marlton. The subject property is located east of Heathermore Boulevard and will require an extension of said street in order to access the site. This detailed site plan consists of a site plan and landscape plan. No architectural elevations are included. A detailed site plan for architectural review will be required prior to the issuance of any building permits.

2. **Development Summary**

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone(s)	R-P-C and R-T	R-P-C and R-T
Use(s)	Vacant	Single-family attached
Acreage	77.16	77.16
Lots	0	396
Parcels	0	0
Square Footage/GFA	NA	NA

\*Denotes Amendment

Underlining indicates new language

[Brackets] indicate deleted language

3. Single-family attached lots, shown on Preliminary Plan of Subdivision 4-93078 and approved pursuant to the Subdivision Regulations, are a permitted use in the R-T Zone and are subject to all the requirements of the R-P-C Zone. Sections 18, 21 and 22 are part of East Marlton Phase I. The community, known as Marlton, was placed in the R-P-C (Residential Planned Community) Zone via Zoning Map Amendment A-6696 in 1969. The R-P-C Zone provides for the development of large-scale, planned communities. An Official Plan, which includes zoning subcategories, and a detailed development plan provide the overall framework for the development of the community. The zoning of the properties generally east of the PEPCO line, and known as East Marlton, was amended via Zoning Map Amendment A-9730-C in 1990.

The proposed detailed site plan was evaluated based on its conformance with the following documents:

The Marlton Official Plan, A-6696, A-9730, A-9731, as amended through 1994.

The Marlton Detailed Development Plan as amended through 4/4/2000.

Marlton revised justification statement, July 1989.

Zoning Ordinance No. 10-1990, approving Zoning Map Amendment No. A-9730.

Planning Board Resolution No. 90-439, approving the revised Official Plan.

Planning Board Resolution No. 94-117; approving Official Plan Amendment 2.

4. The proposed development conforms to the zoning subcategories of the Official Plan. Sections 18, 21 and 20 conform to the Detailed Development Plan. The proposed development was also reviewed for conformance with the conditions of approval of A-9730 embodied in Zoning Ordinance No. 10-1990, which rezoned 431.5 acres of land to the R-P-C (R-R, R-80, R-35, R-T and R-10) Zones. The following conditions of Zoning Ordinance No. 10-1990 (which are not otherwise superceded by current law) apply to these cases:

1. **That a subdivision plat be submitted to the Park and Planning Commission for approval for the subject property, being 431.5 acres in size or on a parcel by parcel basis, and that a final plat be recorded.**

This condition has been fulfilled through the filing and approval of Preliminary Plan of Subdivision 4-93078, which was approved by the Planning Board on May 5, 1994.

2. **Detailed Site Plan review, in accordance with Part 3, Division 9 of the Zoning Ordinance, shall be required and include the following:**

- a. **The original conditions (Nos. 1, 4A, 4B and 5) of the official Marlton Plan as adopted on July 13, 1970;**

*Comment:* Condition 1 states the following:

1. **That this Official Plan designate an area of approximately 100 acres for the public park purposes, the same to be dedicated, in stages and at the time of platting, to the M-NCPPC.**

At the time of the preliminary plan of subdivision, the timing of the platting of the 100-acre linear park was not addressed because the land area included in the preliminary plan did not include the 100-acre park. However, the next preliminary plan that is submitted for review will be required to include entire parcels of land and will include the entire 100-acre future parkland. At that stage, the timing of platting of the park will be determined.

Conditions 4A and 4B are directly related to the development of the golf course and have been completed. Condition 5 relates to the requirement of a chain-link fence at the perimeter of a property south of the subject site; therefore, it does not pertain to this detailed site plan.

c. **The following environmental conditions:**

- i. **Affected streams shall be protected in accordance with the Patuxent River Policy Plan; a 50 foot wide vegetative buffer shall be retained along all streams, and expanded to include the 100-year floodplain, non-tidal wetlands, steep slopes and erodible soils;**
- ii. **The applicant shall submit a forest stand delineation plan for approval by the Natural Resources Division. Major stands of trees shall be preserved along streams, adjoining roads and property lines. This plan shall be performed on a parcel by parcel basis at the time of the Preliminary Plan submittal;**

*Comment:* At the \*original Planning Board hearing, Michael M. Hethmon, a citizen testifying in opposition to the case, raised the issue of whether the Detailed Site Plan had accurately reflected the outline of nontidal wetland, wetland buffer and/or the expanded buffer since the Amy Corp of Engineers had not yet approved the jurisdictional delineation of the wetlands.

d. **Resolution of the appropriate location for a library.**

*Comment:* This issue will be raised in conjunction with any future preliminary plans of subdivision, when the issue of adequate public facilities will be addressed.

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e. **The following design considerations should be addressed:**

- i. **Extending from the main open space spine, the linear park, are bands of green space as shown on the proposed Tentative Plan. This provision creates a framework for a community open space system. The internal open space within individual parcels should be provided and planned as branches off these major open space bands. These branches are essential to the completeness of the entire system. With well distributed branches, the open space system can then intimately and harmoniously blend into neighborhoods and greatly enhance the cohesiveness of this planned community.**

*Comment:* Review of the Official Plan indicates that this condition relates directly to properties on the west side of proposed East Marlton Avenue, which is the main spine road in East Marlton. Sections 18 and 21 are located on the east side of Marlton Avenue and, therefore, are not subject to this condition. However, Section 22 is located on the west side of Marlton Avenue, but is located between Section 25 (which is adjacent to the linear park and is zoned R-10) and Marlton Avenue. According to the plans, a band of green space is located along the southern edge of section 22, which is demonstrated on the detailed site plan.

- ii. **Stands of mature trees and other environmental features can and should be preserved to the maximum extent possible through careful planning. Cluster development is an effective method to preserve environmental features and create meaningful open space. This method will make the concept of open space system more feasible and is a good tool to implement the concept. It is therefore highly recommended that the cluster development method be used wherever possible.**

*Comment:* The subject plan is designed as a cluster type of development and has preserved natural features to the greatest extent possible.

- iii. **A 50-foot-wide building restriction line shall be maintained from Marlton Avenue. Within this 50-foot building restriction line, existing vegetation shall be retained or landscaping shall be provided to buffer and screen the units from East Marlton Avenue.**

*Comment:* Each of the proposed sections has frontage on proposed East Marlton Avenue. None of the proposed units is within the 50-foot building restriction line. Open space parcels are located between the lots and future East Marlton Avenue. Existing trees are proposed to remain in a number of areas and landscaping is proposed where existing trees cannot be saved, which will provide an adequate buffer between the rear of the units and proposed East Marlton Avenue. However, the plans should include the building restriction line required by the condition above.

- f. **Compliance with the archaeological field survey and testing Program outlined in Section VI-C of the Technical Staff Report (8/22/88).**

*Comment:* The area addressed in this condition relates to Section 18, relating to the Claggett House and a cemetery. The following discussion is taken from the Historic Preservation Section referral dated March 22, 2004, Pearl to Lareuse:

The subject property comprises approximately 401 acres in the Croom area, on the west side of Croom Road, MD 382. This property was part of the plantation known as *Croome*, which was in the 18<sup>th</sup> and 19<sup>th</sup> centuries the home place of the Claggett family. None of this property is subject to the Prince George's County Historic Preservation Ordinance (i.e., it is not listed in the Inventory of Historic Resources in the *Historic Sites and Districts Plan*), but the Claggett family cemetery is located on Parcel 68, close to its boundary with the developing Section 18. All burial places are protected by Maryland state law.

The Croome plantation was the home place of Thomas John Claggett (1743-1816) who, as Anglican rector, served St. Paul's Parish from 1780 until his death in 1816. (At that time, St. Paul's Parish included the mission chapel, now known as St. Thomas' Church at Croom.) Thomas John Claggett was one of the most prominent and important personages of his period in Prince George's County and surrounding areas, particularly in guiding the American Episcopal Church through its transition after the American Revolution. Claggett was born in October 1743 in Prince George's County, son of the Reverend Samuel Claggett, who had served parishes in Calvert and Charles Counties. With his father's death in 1756, the younger Claggett inherited the 500-acre plantation, Croome, from which the small village around the mission chapel took its name. After the end of the American Revolution, and the subsequent formation of the Protestant Episcopal Church of the United States in 1789, Claggett remained rector of St. Paul's Parish, serving both the parish church in Baden and the mission chapel in Croom, residing at his *Croome* plantation. In May 1792, the Council of the Protestant Episcopal Church elected Thomas John Claggett as Bishop, and in September of that year he was consecrated at Trinity Church in New York City as the first Bishop of Maryland. He was the first American Episcopal Bishop to be consecrated in the United States; all previous Bishops had been consecrated in the British Isles. In 1800 he was appointed chaplain of the U. S. Senate at its first session in the District of Columbia.

After his death in August 1816, Bishop Claggett was interred in a small family cemetery at his *Croome* plantation. Also buried in this cemetery were his wife, Mary Gantt Claggett, and at least two of his daughters, Elizabeth Claggett Young (1787-1864) and Mary Claggett Eversfield (1776-1810), and his son, Samuel Claggett (1783-1824). It is likely that other members of his family were also buried in this family cemetery, and it is also likely that members of the plantation's slave population were buried near the family cemetery. Before her death in 1864, Elizabeth Young, the Bishop's youngest daughter, had the burial ground surrounded by a handsome brick wall, most of which is now demolished. In 1898, the remains of Bishop Claggett and his wife were removed and reinterred at the National Cathedral (then under construction) in Washington, D.C., but the burials and gravestones of the other members of the family remained in place.

In the early 1960s, the cemetery was described as in good condition, with the three-foot-high brick wall intact, marking the boundaries of the cemetery at approximately 50 feet square. Descriptions and photographs taken at that time indicate that, about three or four feet outside the brick wall, an ornamental Victorian fence further defined the family cemetery. By the 1970s, however, the cemetery had been severely vandalized<sup>3/4</sup> the brick wall had been reduced to rubble, the fence was largely destroyed, and the remaining tombstones removed or broken.<sup>1</sup> In 1985, the congregation of St. Thomas' Episcopal Church in Croom began proceedings to move the remaining Claggett family burials to the church graveyard, but the project was never carried out.

Records from descendants of the Claggett family indicate that the family cemetery was located very close to the plantation house of Bishop Claggett: "in the rear of the house, not far from the back door...."<sup>2</sup> This house, which was of wood frame construction dating from the 18th century, was destroyed by fire in December 1856. Remains of the house foundation have been observed close to the cemetery.

### **Findings**

1. The Claggett family cemetery is located on Parcel 68, a 42.13-acre parcel of land owned by the Board of Education and adjoining the proposed subdivision road south of Section 18. (This land was acquired by the Board of Education in 1969.) The 29-by-35-foot graveyard was specifically excluded from the 1969 deed (Liber 3685, Folio 695) and all previous deeds, having been reserved to the Claggett/Chew family by legal deed in 1916, together with right of ingress/egress to the cemetery (Liber 120, Folio 409). By Circuit Court decision (25 November 1970), recorded in Prince George's County Land Record #3899:9-11, the Claggett Cemetery with right of ingress and egress was transferred to the Board of Education.
2. The Claggett family cemetery has been located and shown on the revised detailed site plan. This plan also shows a 50-foot undisturbed bufferyard drawn around the cemetery, outside the area that will be affected by grading for the proposed subdivision road (East Marlton Avenue).
3. The developing property is part of the 18th century plantation known as Croome. The plantation house of the Claggett family is known to have been located very close to the family cemetery. The site of the Claggett plantation house has been located, through preliminary investigation of Archaeological Site 18PR398; there has been no final report on this investigation. The locations of slaves quarters, domestic and agricultural outbuildings, and possible additional burials have not been determined.
4. The Planning Board has recently issued a directive that the possible existence of

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<sup>1</sup> The tombstone inscriptions had been recorded by the Daughters of the American Revolution in the 1950s.

<sup>2</sup> Unpublished memoirs of Thomas John Chew Williams, Baltimore, MD, 1924, p. 5.

slave dwellings, slave graves, or Native American presence must be considered in the review of development applications, and that potential means for preservation of these resources should be considered.

### **Conclusions**

1. The revised detailed site plan shows that the Claggett family cemetery will not suffer adverse effect from grading for the proposed subdivision road (East Marlton Avenue).
2. Since the subject property includes land that was once part of the large antebellum plantation known as Croome, documentary and archeological investigation should be required to determine whether there exists physical evidence of slave dwellings or burials, as well as evidence of prehistoric Native American presence.

**g. An appropriate system of communitywide pedestrian and bridle trails shall be developed.**

*Comment:* The adopted and approved Subregion VI master plan identifies two master plan trail issues that impact the subject application. The master plan recommended an equestrian trail along the western edge of the subject site, with a connection to the east toward the school site. These connections utilized former haul roads that run through the property. However, at the time of preliminary plan 4-93078, it was determined that these trails were not feasible to implement. Several properties had been platted for subdivision prior to the approval of the Subregion VI master plan. The location of the areas approved for residential development prohibited the retention of the trail in this location. For these reasons, the hiker/equestrian trail was not required at the time of preliminary plan. Finding 11 from approved Preliminary Plan 4-93078 discusses this issue and is reiterated below:

“The Adopted and Approved Subregion VI Master Plan includes the location of a hiker/equestrian trail on the subject property. The proposed location of the trail coincides with a former haul road, which was located on the property and used by horseback riders in the past. Even though the Master Plan contains the proposed location of the trail, the recommended trail network cannot be implemented on the subject property since it would be located in an area that is proposed for residential development which had been approved prior to the approval of the Master Plan and is also included in the subject

application. For this reason, staff did not require that the hiker/equestrian trail be shown on the Preliminary Plat.”

\*At the original Planning Board hearing, Michael M. Hethmon, a citizen testifying in opposition to the case, raised the issue of whether the Detailed Site Plan, as the first phase of the East Marlton Development had actually fulfilled the Official Plan requirement of providing a communitywide

equestrian or hiker trail system.

3. **The applicant shall submit a revised traffic study for approval by the planning Board at the time of preliminary plan approval for each parcel or an overall study.**

*Comment:* A traffic study was submitted at the time of the preliminary plan and the plans were reviewed and approved accordingly. See discussion under the Transportation Section.

5. **The Planning Board, upon review of any detailed site plans, shall determine if the intersection of East Marlton Avenue and Heathermore Boulevard shall be configured in a 'T' or in a curved design. This determination shall be based upon acceptable level of service and public safety considerations.**

*Comment:* The configuration of Heathermore Boulevard and East Marlton Avenue was largely determined, based on level of service and safety considerations, at the time of preliminary plan.

The configuration reflected on the detailed site plan is consistent with the approved preliminary plan.

\*However, at the original Planning Board hearing, Michael M. Hethmon, a citizen testifying in opposition to the case, raised the issue of whether the Detailed Site Plan actually conformed to the Official Plan requirement because the configuration of the intersection of Lake Marlton Avenue and Heathermore Boulevard is shown as a traffic circle. Further, Mr. Hethmon testified that the design of the traffic circle was contingent on the developer's ability to obtain permits to fill wetlands, jurisdictional waters and other protected buffer zones.

6. **All lots, including those in Sections 18 and 19, shall have direct access to East Marlton Avenue from within the Marlton community and shall not connect to Croom Road.**

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- a. **The applicant shall construct the I-3 access road to Croom Road prior to application of building permits for greater than 50 percent of the dwelling units contained in Zoning Map Amendment A-9730. The applicant shall have the right to construct said road at the minimum required by the Department of Public Works and Transportation until such time as the I-3 property develops and shall discuss with the local citizens associations design and placement of the road to minimize its impact on the historic site opposite**



**the I-3 property. If some governmental agency required direct access to Croom Road other than that shown on ZMA A-9730 or A-9731 or the unaffected portions of the Marlton Official Plan contrary to Condition 5, then the I-3 road will not be built until the I-3 property is developed. The applicant shall not advocate or oppose such a connection.**

*Comment:* The proposed detailed site plan conforms to this condition. No vehicular or pedestrian connection to Croom Road is proposed. Further, the implementation of the I-3 access road, which will connect to Croom Road, is not required until the 1090th building permit issuance.

- 8. The applicant shall use their best efforts to attempt to transfer ownership to a respectable golf course operator who will activate the golf course, or deed the property to The Maryland-National Capital Park and Planning Commission, or another designee acceptable to the Citizens Association of Marlton, within three years from acquisition, which acquisition has already occurred on or about January 1, 1989. Prior to said transfer, the applicant shall maintain all areas adjacent to existing residential development in a state of repair.**

*Comment:* This condition has been fulfilled and the golf course is in operation.

- 9. No building permits shall be obtained by the applicant (or anyone else upon a sale or transfer) for any property within East Marlton in the R-T, R-35, R-10, or I-3 Zones, except the area zoned R-T (R-P-C) known as Section 18 and closest to Heathermore Boulevard, until:**

- a. The golf course property is acquired and deeded as per Condition 8;**

*Comment:* This condition has been fulfilled.

- b. The Community Center/Sales Center referred to in Condition 15 and associated two tennis courts are constructed and placed in operation by the applicant.**

*Comment:* The applicant and citizens agreed to replace the Community Center/Sales Center with recreational facilities as described in PGCPB No. 99-239.

- c. The applicant shall rough grade a minimum of 2 acres and deed to an entity designated by the Citizens Association of Marlton a Youth Center site of approximately 3.3 acres.**

*Comment:* Fulfillment of this condition must be demonstrated prior to the issuance of building permits for Sections 21 and 22.

- d. The applicant shall develop in West Marlton the two park/school sites**

**according to plans submitted to the Citizens Association of Marlton and dependent on approval by the appropriate County agencies. Sites are located off Grandhaven Avenue and Trumps Hill Road.**

*Comment:* Fulfillment of this condition must be demonstrated prior to the issuance of building permits for Sections 21 and 22.

- 10. The overall density of East Marlton shall be limited to 2,179 dwelling units, including the 225 units referred to in Condition 7, delineated as follows:**

<b>54</b>	<b>1-acre R-R lots</b>
<b>90</b>	<b>1/2-acre R-R lots</b>
<b>359</b>	<b>1/4-acre lots</b>
<b>283</b>	<b>zero lot line R-35 lots</b>
<b>713</b>	<b>Townhouse R-T lots</b>
<b>0</b>	<b>Garden Apartments</b>
<b><u>680</u></b>	<b>R-10 units</b>
<b>2,179</b>	<b>Total Residential Units</b>

*Comment:* The above dwelling unit allocation was applied at the time of subdivision, and the proposed development falls within these limits. Of the total 2,179 dwelling units allocated in East Marlton, 419 townhouse lots in the R-T Zone, 80 single-family lots in the R-80 Zone and 73 single-family lots in the R-R Zone have received subdivision approval. This detailed site plan reduces the proposed density in the R-T-zoned land from 419 to 396. \*However the applicant has agreed to a further reduction in the number of units in a negotiated agreement with the citizens.

- 15. The applicant shall construct a Community Center building of two floors, each of 2,000 square feet in gross floor area, along with two tennis courts. The Citizens Association of Marlton shall be given one level rent and utility free for community use. The other level shall be utilized by the applicant as a Sales Center for builders.**

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**The building and tennis courts shall be maintained by the applicant at its expense and shall be deeded to an entity designated by the Citizens Association of Marlton upon completion of construction in Marlton or at an earlier date as determined by the applicant.**

*Comment:* The applicant and citizens agreed to replace the community center with recreational facilities as described in PGCPB No. 99-239.

5. On May 5, 1994, the Planning Board approved Preliminary Plan 4-93078 for a portion of land within East Marlton, known as Sections 18-22, which consists of 181 acres, divided into 572 lots and 16 parcels (PGCPB No. 94-112). Due to the size of the project, the preliminary plan was valid for six years and has been granted two 2-year extensions, making the preliminary plan valid through May 5, 2004. Final plats must be accepted for processing no later than that date.

Conditions of the preliminary plan that warrant discussion are included below:

3. **Development of this site shall be in conformance with all of the conditions of the Official Plan for the Marlton Residential Planned Community (R-P-C), ZMAP Nos. A-6696-C, A-9730-C and A-9731-C.**

*Comment:* The subject detailed site plan will conform to the applicable requirements of the zoning case, if the conditions of approval are adopted.

4. **Prior to approval of a Final Plat for Section 22, the Conceptual Stormwater Management Plan, CSD #948003220, shall be approved by the Department of Environmental Resources (DER).**
5. **Prior to approval of any Final Plat(s), the applicant, his heirs, successors and/or assigns, shall enter into a phasing agreement with DER for the construction of the regional stormwater management facility.**
6. **At the time of Detailed Site Plan, the applicant, his heirs, successors and/or assigns, shall obtain approval of all on-site stormwater management ponds from DER.**

*Comment:* Approval of a new Stormwater Management Concept Approval Letter (22351-2001-00) supercedes the prior approval and eliminates construction of the 18-acre, in-stream stormwater management facility. The Stormwater Management Concept Approval Letter now indicates that the construction of an upland stormwater pond (dry) is required to attenuate the 2-, 10- and 100-year storm event and that technical review is required. Sections 18, 21 and 22 will be affected by Ponds 1, 5 and 6 and a resulting expansion of the 100-year floodplain. The ponds proposed to handle the drainage areas of Sections 18, 21 and 22 and the construction of access roads to those sections have been shown on the DSP or TCPII, although they are not clearly labeled and delineated. The location of these ponds and the proposed elevation of the 100-year floodplain are required to determine that structures and lot lines are sufficiently setback, that additional clearing or grading required for the construction of the ponds has been evaluated, and that woodland conservation is not proposed within the proposed 100-year floodplain elevation.

\* Recommended Condition: Prior to certificate approval of the detailed site plan, the DSP and TCPII shall be revised to clearly delineate and label the proposed stormwater management ponds (Ponds 1, 4 and 6).

Recommended Condition: The impacts resulting from the grading and construction of Ponds 1, 4 and 6 to the Primary Management Area shall be in conformance with impacts approved at the

time of preliminary plan approval.

8. **The construction of the 18-acre lake shall be completed under the following schedule:**
  - a. **The applicant, his heirs, successors and/or assigns, shall obtain the appropriate Federal, State, and local permits for the construction of the 18-acre lake by the issuance of the 800<sup>th</sup> building permit.**
  - b. **The applicant, his heirs, successors and/or assigns, shall bond and start construction of the lake by the issuance of the 1,000<sup>th</sup> building permit.**
  - c. **The applicant, his heirs, successors and/or assigns, shall complete construction of the lake with its recreational facilities by the issuance of the 1,100<sup>th</sup> building permit.**

*Comment:* The current Stormwater Management Concept Approval Letter eliminates the need to construct the 18-acre lake as a stormwater management facility, but does not necessarily eliminate the construction of the lake as a recreation facility. The feasibility of constructing the lake is dependent on receiving wetlands permits from the Maryland Department of the Environment for permanent and temporary disturbance of nontidal wetlands, the provision of mitigation, permission from the Department of Environmental Resources for grading in the 100-year floodplain, and the provision of compensatory storage. In regard to timing, the subject application is the second detailed site plan to be approved in the East Marlton development. Sections 19 and 20, DSP-03035, were approved with 100 dwelling units. This application is for 396 dwelling units, for a total of 496 dwelling units proposed. The triggers related to the development for the lake are far from being met at this time.

9. **If for any reason the applicant, his heirs, successors and/or assigns, are unable to obtain the permits for the construction of the 18-acre lake, the applicant, his heirs,**

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**successors and/or assigns, shall work with the Park Planning and Development Division to renegotiate the recreation facilities package for the 100-acre linear park in order to provide appropriate replacement recreational facilities.**

*Comment:* This condition simply allows the applicant the flexibility not to construct the lake if permits for construction are unobtainable, as long as the applicant renegotiates the recreational facilities package for the 100-acre linear park and an Official Plan Amendment is approved that eliminates the lake.

10. **The applicant, his heirs, successors and/or assigns, shall convey the 100-acre linear**

**park to the Maryland National Capital Park and Planning Commission by the issuance of the 1,100<sup>th</sup> building permit.**

*Comment:* If this detailed site plan is approved as proposed, combined with the previously approved DSP-03035, the number of dwelling units proposed is 496 permits for the development of East Marlton, thus the trigger for conveyance of the park to M-NCPPC is far from being met at this time.

**12. The applicant, his heirs, successors and/or assigns, shall post a performance bond for the construction of the recreational facilities in the 100-acre park by issuance of the 800<sup>th</sup> building permit. The bond shall be submitted to the Park Planning and Development Division at least two weeks prior to making application for 800<sup>th</sup> building permit.**

*Comment:* The trigger for bonding of the recreational facilities within the 100-acre park is far from being met at this time.

**13. The applicant, his heirs, successors and/or assigns, shall complete construction of the recreational facilities in the Brandywine Country Park site prior to issuance of any building permits for property in East Marlton, in R-T, R-18, R-35, R-10, and I-3 Zones. The applicant, his heirs, successors and/or assigns, shall submit park development plan to the Park Planning and Development Division for their review and approval.**

*Comment:* The subject detailed site plan contains R-T-zoned land; therefore, the condition applies and will be carried over to the approval of the subject application.

**19. Approval of variations to the Subdivision Regulations for impacts to the Patuxent River Primary Management Area, wetlands, streams, and floodplain as shown on Staff Exhibit 3.**

*Comment:* The approved limits of disturbance to the Patuxent River Primary Management Area are those shown on approved TCPI for Sections 18, 21 and 22. The DSP and TCPII show impacts into the Patuxent River Primary Management Area largely in conformance with those approved on the preliminary plan, except for the following areas.

- a. New impacts are proposed due to a revised circulation pattern, which proposes the extension of Logging Trail Way from Section 18 to Section 19. The new stream crossing replaces a previous access point through Section 20 and proposes impacts to the PMA that were not approved at the time of subdivision. The extension of this roadway to Section 19 will be the sole access proposed to the single-family dwellings. A comparison of the previously approved access point to the one now proposed indicates that the new proposal will impact a smaller area of wetlands, wetlands buffers, 100-year floodplain, and PMA than the previous approval, and may result in the preservation of a large, contiguous block of woodlands associated with sensitive environmental areas of the site. The extension of Logging Trail Way from Section 18 to Section 19 as an alternative to access through Section 20 is supported by the Environmental Planning Section due to the

reduction of Primary Management Area impacts in Section 20.

b. The Preliminary Plan (4-93078) and TCPI (TCPI/48/93) for the extension of Heathermore Boulevard and East Marlton Avenue do not include any delineation of the PMA to determine what impacts were approved. PGCPB 94-122 provides the following finding:

“The stream crossings and associated impacts to floodplain, wetlands, and the Patuxent River PMA for the main roads, Lake Marlton Avenue and Heathermore Boulevard, connecting East Marlton with West Marlton, are in accordance with Section 24-113 of the Subdivision Regulations. The Natural Resources Division staff noted that these roads are required for reasonable development of this and adjoining properties. The granting of these variations will not be detrimental to the public safety, health, or welfare, or injurious to other property. The topography of the subject property and the relationship with adjoining properties require these road alignments. Failure to construct these streets would be a hardship to the owner. It should be noted that the impacts to floodplain will be further reviewed for impacts to floodplain by DER Watershed Protection Branch and for impacts to wetlands by the U.S. Army Corps of Engineers. Both of these reviews will further certify that the impacts will not be detrimental to public health, safety, or welfare nor injurious to other property.”

It should be noted that many of the impacts are within the proposed park site and are subject to review by the Department of Parks and Recreation, as previously discussed. The Department of Environmental Resources will further review impacts to the 100-year floodplain prior to the issuance of permits. The U.S. Army Corps of Engineers and/or Maryland Department of the Environment will review impacts to nontidal wetlands and Waters of the U.S. during the wetlands permitting process. The extension of Heathermore Avenue and construction of East Marlton Avenue to provide access to Sections 18, 21 and 22 is supported by the Environmental Planning Section because it was previously approved at time of preliminary plan.

\*Recommended Condition: Prior to certificate approval of the TCPII or Final Plat, whichever precedes, an approved floodplain study for the existing 100-year floodplain shall be submitted.

Recommended Condition: Prior to certificate approval of the DSP and TCPII, the 100-year floodplain shall be delineated on the plans and clearly labeled.

Recommended Condition: Prior to certificate approval, revise the TCPII and detailed site plan to minimize impacts to the Patuxent River Primary Management Area resulting from the extension of Logging Trail Way from Section 18 to Section 19.

**21. A Detailed Site Plan shall be approved prior to Final Plat or issuance of any grading permits to assure the minimization of impacts to the Patuxent River Primary**

**Management Area Preservation Area and to evaluate noise mitigation measures. This shall include, at a minimum, limits of disturbance for all grading and a Type II Tree Conservation Plan. The site plan shall show all stormdrain, sewer and utility easements. Wetlands shall be field located and approved by a permit issuing authority, prior to survey, and the surveyed wetlands shall be shown on the Detailed Site Plan.**

*Comment:* The current application is submitted in fulfillment of this condition. The minimization of impacts to the Patuxent River Primary Management Area was addressed above and will be further addressed in the environmental review section of this memorandum. The evaluation of noise mitigation measures is addressed below.

\*Recommended Condition: At time of final plat, conservation easements shall be described by bearings and distances. The conservation easements shall contain the delineated Patuxent River Primary Management Area except for areas of approved impacts. 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.”

**22. A Noise Study shall be prepared for review and approval by the Natural Resources Division, prior to the review of the Detailed Site Plan for Sections 18, 21 and 22, with details of appropriate noise mitigation measures. Appropriate measures may include screening, berming, re-orientation of structures or use of specific materials for construction.**

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[Brackets } indicate deleted language

A noise study prepared by Staiano Engineering, Inc., dated October 27, 2003, was submitted for the full build-out of East Marlton Avenue traffic. Based on an average daily traffic (ADT) count of 12,000 and a vehicle speed of 40 MPH, the 65 dBA Ldn noise contour was predicted to fall about 60 linear feet from the centerline of the roadway. The study concludes that no residential structures are location within the 65 dBA Ldn noise contour line.

*Comment: No additional information concerning noise is required at this time.*

**26. Prior to the issuance of any building permit, the following improvements shall be in place, under construction, advertised for construction by the Department of Public Works and Transportation (DPW&T) or the State Highway Administration (SHA), or otherwise provided\* by the applicant, his heirs, successors and/or assigns:**

**a. At US 301/Osborne Road Intersection**

- 1. Construction of a dual left-turn lane at the northbound approach.**
- 2. Construction of two lanes (eventually tapering to one lane) along westbound Osborne Road to receive left-turning traffic from US 301 (the length of taper to be determined by DPW&T).**

**The applicant, his heirs, successors and/or assigns, shall construct the improvement or contribute his share of the cost of said improvement based on an agreement between the applicant, the M-NCPPC Transportation staff, SHA and/or DPW&T.**

**b. At US 301/Heathermore Boulevard Intersection**

- 1. Installation of a traffic signal.**
- 2. Construction of an exclusive right-turn lane on the northbound approach.**
- 3. Construction of a dual left-turn lane on the southbound approach.**
- 4. Construction of a dual left- and a dual right-turn lane on the westbound approach.**

**c. At Trumps Hill Road/Heathermore Boulevard Intersection**

- 1. Construction of a left, a through and an exclusive right-turn lane on the eastbound approach.**
- 2. Construction of an exclusive left- and a through and right-turn lane on the westbound, northbound and southbound approaches.**

**d. At Fairhaven Avenue/Heathermore Boulevard Intersection**

- 1. Construction of a through and left-turn lane on the westbound approach.**
- 2. Construction of a through and an exclusive right-turn lane on the eastbound approach.**
- 3. Construction of an exclusive right- and an exclusive left-turn lane on the northbound approach.**



- e. **Construction of four through lanes of Heathermore Boulevard between Trumps Hill Road and US 301**
- f. **Construction of Heathermore Boulevard (with a cross-section to be determined by DPW&T) from Trumps Hill Road to its intersection of the proposed Lake Marlton Avenue (C-273).**
- g. **Construction of Lake Marlton Avenue (with a cross-section to be determined by DPW&T).**

**The provision of the improvements by the applicant identified above is defined as:**

- a) **providing adequate financial assurance,**
- b) **having a permit for construction and**
- c) **having an agreement on the timing of the construction, all to the satisfaction of DPW&T or SHA.**

*Comment:* This condition identifies several off-site transportation conditions, along with construction of links of Heathermore Boulevard and East Marlton Avenue. This condition is enforceable at the time of building permit, and no elements of the condition are enforceable at this time.

- 6. The proposed development is not subject to the current development standards of the R-T Zone, but rather should be developed in accordance with the standards in effect in 1969. Section 27-540(b)(1)(A) of the Zoning Ordinance states:

**(b) R-P-C Zone.**

**(1) General regulations.**

**(A) In general, all requirements for density, lot frontages and sizes, green areas, the location and size of buildings and structures, signs, and off-street parking and loading areas shall be the same as specified for the zoning subcategories designated on the Official Plan and any other additional requirements specified in this Part or on the Official Plan for the R-P-C Zone. If the requirements of other zones are amended in this Subtitle after a property is placed in the R-P-C Zone, that property shall still only be developed in accordance with the approved Official Plan, unless the amendments specifically refer to the R-P-C Zone.** (emphasis added)

The section above of the Zoning Ordinance exempts the subject property from the requirements

of CB-55-1996 and CB-56-1996, which governs the development of townhouses in zones other than the R-P-C.

7. The proposal is subject to the requirements of Sections 4.1, Residential Requirements; 4.6, Buffering Residential Development from Streets; and 4.7, Bufferyard Planting, of the *Landscape Manual* and conforms generally to each of the sections above. However, the plans should demonstrate compliance with Section 4.7.

### Referral Comments

8. **[Environmental Planning]**—The Environmental Planning Section has reviewed the revised Detailed Site Plan, DSP-03033, stamped as received by the Countywide Planning Division on January 22, 2004, which incorporates the Detailed Site Plan for Section 21 (previously DSP-03038) and the Detailed Site Plan for Section 22 (previously DSP-03064). A revised Type II tree conservation plan, stamped as received by the Countywide Planning Division on March 2, 2004, was also reviewed.

The Environmental Planning Section recommends approval of DSP-03033 and TCPII/143/03 subject to conditions listed at the end of this memorandum. This memorandum supercedes previous memoranda from the Environmental Planning Section dated December 3, 2003, and February 3, 2004.]

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#### **\*Environmental Planning—Remand**

The Environmental Planning Section has reviewed the information provided in the recent referral regarding the remands. At this time the Detailed Site Plans and TCPII under review do not specifically address all of the issues raised by the remands or the previous approval conditions; however, sufficient information has been provided to allow for a response to the remand order.

A Detailed Site Plan (DSP-03033) and Type II Tree Conservation Plan (TCPII/143/03-01) for East Marlton, Section 18, 21 and 22, were submitted covering 77.16 acres in the R-T and R-80 Zones. Construction of 396 single-family attached units was proposed, along with the extension of Heathermore Boulevard east of the railroad tracks including its intersection with East Marlton Avenue. The Type II Tree Conservation Plan submitted was for the entire area of East Marlton, which encompasses 580.43 acres, and included the clearing and woodland conservation proposed for DSP-03035 (Section 19 and 20).

DSP-03033 and TCPII/143/03-01 were disapproved by the Planning Board on April 15, 2004, subject to findings contained in PGCPB Resolution 04-73. The District Council elected to review

the detailed site plan on November 22, 2004, and remanded the case to the Planning Board.

### **Response to Remand**

These cases were remanded to the Planning Board for the following purposes:

- a. To allow the applicant to revise the site plan to comply with conditions agreed to by the applicant and area residents; and
- b. To fulfill the purposes of the Zoning Ordinance.

It is our understanding that the main environmental issues involved in these cases revolve around the placement of the intersection of Heathermore Boulevard and East Marlton Avenue and the overall desire to reduce the proposed impacts to the sensitive environmental features on the site. The plans as submitted will reduce impacts to the Patuxent River primary management area.

The Environmental Planning Section continues to recommend approval of DSP-03033 and TCPII/143/03 subject to conditions listed in this staff report.

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The subject detailed site plan is a portion of the Marlton Recreation-Planned-Community (R-P-C), most of which was zoned on February 26, 1969 (District Council Resolution 92-1969). An amendment to the zoning was approved in 1990 for East Marlton, a 431.5-acre portion of the R-P-C, on April 2, 1990. Application was made for three preliminary plans of subdivision and Type I tree conservation plans in 1990 for four sections of the R-P-C: East Marlton, Section 18 (4-90113 and TCPI/147/90); East Marlton, Section 19 (4-90093 and TCPI/136/90); and East Marlton, Sections 20 and 21 (4-90081 and TCPI/146/90). The preliminary plan and TCPI for East Marlton, Section 18 (4-90113) was withdrawn prior to approval; Preliminary Plans 4-90093 (TCPI/136/90) and 4-90081 (TCPI/146/90) were approved by the Planning Board but never proceeded to record plat. Subsequently, a Preliminary Plan (4-93078) and Type I Tree Conservation Plan (TCPI/48/93) were submitted for East Marlton, Sections 18 through 22, which incorporated the three previously submitted preliminary plans and tree conservation plans and superceded all previous approvals. The conditions of approval for 4-93078 are contained in PGCPB Resolution No. 94-112, which are the conditions applicable to this DSP.

The current application is for approval of a detailed site plan for East Marlton, Section 18, 21 and 22, containing 77.16 acres in the R-T and R-80 Zones for the construction of 396 single-family attached units, the extension of Heathermore Boulevard east of the railroad tracks to its intersection

with East Marlton Avenue, and a portion of East Marlton Avenue; and a Type II tree conservation plan for the entire area of East Marlton, which encompasses 580.43 acres. The TCPII submitted with the DSP for Sections 18, 21 and 22 includes the clearing and woodland conservation proposed for DSP-03035,

which was previously approved. The subject property has an approved Stormwater Management Concept Approval Letter (22351-2001-00) superceding the previous Concept Approval, which was issued on February 19, 2002 and is valid until June 30, 2004.

The subject detailed site plan is for 77.16 acres on the east side of the PEPCO right of way and the Pope's Creek Branch of the Pennsylvania Railroad in the Marlton R-P-C. The three sections will have frontage on the east and west sides of East Marlton Avenue (formerly East Lake Drive), which will connect with the extension of Heathermore Boulevard to the east. Streams, nontidal wetlands, 100-year floodplain, severe slopes, and steep slopes on highly erodible soils are found to occur throughout the site. The site is mostly wooded, and the topography varies from gently sloping to severely sloping toward the streams. The soils found to occur include Croom, Mixed Alluvial, Sandy Land, and Westphalia-Evesboro. Croom soils are in hydrologic soils group C and are highly erodible. Mixed alluvial soils are hydric and may experience a high water table and a flood hazard. Sandy land is not hydric or highly erodible and does not pose significant difficulties for development. Westphalia soils are not hydric but are highly erodible and may create difficulties when associated with severe and steep slopes. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled "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. Croom Road (MD 393), a designated Historic Road, forms the eastern boundary of the Marlton R-P-C, but there is no frontage related to the current detailed site plan. An evaluation of noise impacts from transportation sources on East Marlton Avenue was required by conditions of preliminary plan approval at the time of the detailed site plan review. The property is located in the Charles Branch watershed and the Patuxent River basin. The site is located in the Developing Tier as reflected in the adopted General Plan. There are no known master plan issues identified with this site, which is located in Subregion VI.

### **Environmental Review**

Note: When plans are revised to address these and other comments, the revision boxes on each sheet shall be updated to reflect the revision made, when, and by whom.

- a. No Forest Stand Delineation was submitted with this application, nor was one available in the Preliminary Plan (4-93078) files. The approval resolution contains no finding concerning the submittal of an FSD, but does state that a TCPI was previously approved for Sections 18 through 22. The TCPII for Sections 18 through 22 is in general conformance with the approved TCPIs, and the Environmental Planning Section will not require additional information at this time.

*Comment: A Detailed Forest Stand Delineation will be required for the remainder of TCPII/143/03 with future development applications.*

- b. The TCPIs approved for East Marlton are based on the boundaries of the proposed subdivision plans, but the total limits of TCPI/48/93 does not have preliminary plans of subdivision and has not been platted. The boundaries of the TCPII, therefore, consist of the boundaries of all legal parcels affected by the proposed development. In some areas land has been legally separated due to the dedication of East Marlton Avenue. The total area of the TCPII is, therefore, much larger than the limits of the detailed site plans under review.

TCPII/143/03 consists of Parcels 97, 98, 99, 107, 109 and 139, and East Marlton Section 19 and 20, for a total acreage of 582.17 acres. The Environmental Planning Section agrees with the delineation of the boundaries of the TCPII as shown on Sheet 1 of 65 of the Type II tree conservation plan. Parcel 97 is a 77.03-acre parcel that is zoned I-3 and has a 15 percent woodland conservation requirement. The remaining parcels, totaling 503.40 acres, are in the R-T, R-R, R-35, and R-10 Zones with a 20 percent woodland conservation requirement. There are 57.58 acres of floodplain on the residentially zoned properties, and 1.11 acres of floodplain on Parcel 97 (I-3), for a total floodplain area of 58.69 acres and a net tract area of 521.74 acres. The net tract area will require verification by the submittal of a 100-year floodplain study approved by the Department of Environmental Resources.

The woodland conservation threshold for this TCPII is 100.55 acres (19.27 percent of the net tract) plus additional acres due to any clearing that is proposed on the site plus off-site grading impacts required to implement this plan, such as grading on Conrail property or Board of Education sites. The TCPI proposed to meet all woodland conservation requirements on site through preservation on homeowner's association parcels, private lots, and on the proposed 100-acre linear park. The woodland conservation requirement for East Marlton is proposed to be handled as an "umbrella TCPII" as opposed to individual tree conservation plans linked to a detailed site plan, where both plans address the same acreage. The "umbrella TCPII" will use a single, multizoned woodland conservation worksheet to track the amount of clearing approved and the amount of woodland conservation provided as detailed site plans are approved for individual sections.

The TCPII as submitted will need to be revised to reflect this single, multizoned approach. This will require removal of individual woodland conservation worksheets and their replacement with a single, multizoned "umbrella" worksheet. Woodland conservation areas will be designated within the limits of individual detailed site plans as specific development plans allow the clear delineation of where preservation is desirable and feasible. The limits of the detailed site plans shall be shown and labeled on the TCPII plans.

The current TCPII takes into account all of the clearing required for the construction of East Marlton, Sections 18 through 22, which proposed 111.36 acres of clearing on the net tract, 8.52 acres of clearing in the 100-year floodplain, and 5.46 acres of off-site impacts,

resulting in a woodland conservation requirement of 142.37 acres.

The TCPII proposes to meet this requirement with 142.37 acres of woodland preservation, located within Sections 18 through 22, and “banked” on the remainder of the TCPII plan.

- c. The TCPII has been revised to contain 65 sheets in its current form, and all sheets are at a scale of 1-inch equals 30 feet. As future phases are added to the TCPII, only those sheets affected will be revised. All revisions to the TCPII should be noted and dated in the revision box.

Tracking of revisions on a large scale TCPII of this sort necessitates the application of various mapping conventions, which have been agreed upon by the applicant and staff. The TCPII has been revised so that each sheet represents a defined polygon (or polygons) with a specific area; match lines have been provided to indicate how all the polygons fits together; the outside boundary of the TCPII has been clearly delineated and emphasized; a woodland conservation summary chart has been provided on each sheet; and a clear and complete legend has been provided on each sheet.

The TCPII includes superfluous soils boundaries and labels that should be shown only on the FSD. The TCPII also requires numerous minor revisions.

- d. The detailed site plan shows a limit of disturbance for a haul road connecting to Croom Road for construction access for the tunnel under the railroad tracks. No clearing has been shown in conjunction with the construction of the haul road on the TCPII. The Urban Design Section has also indicated that any clearing in this area is subject to the prior approval of a detailed site plan for infrastructure. The limits of disturbance shown on the DSP and TCPII must be in conformance prior to certificate approval.
- e. Many of the TCPII plan sheets are outside of the area of the approved preliminary plans for Section 18 and 22 and do not have any primary management area delineated, although some of the plan sheets delineate individual environmental features. The plans sheets have used varying notes to express this. A consistent note should be added to each of these sheets indicating that a full delineation of the Patuxent River Primary Management Area has been deferred until submittal of a detailed Forest Stand Delineation, which is required prior to the submittal of any additional preliminary plans within East Marlton.
- f. The TCPII has been revised to show the location of the cemetery on the BOE site, and a determination has been made that there are no grading impacts to the cemetery or its environmental setting as part of the current proposal.
- g. Off-site grading impacts are proposed with the extension of the existing Heathermore Boulevard across the PEPCO right-of-way and Conrail tracks, including impacts to adjacent TCPIIs.

- h. Prior to the issuance of grading permits, conformance between the limits of disturbance shown on the approved sediment and erosion control plans, the detailed site plan, and the TCPII shall be found.
  - i. The preliminary plan for Section 18 shows a “35' L.S. [Landscape?] Buffer” and a “50' Noise Buffer” along the frontage of Section 18 adjacent to East Marlton Avenue. These buffers have been delineated on the detailed site plan and the TCPII.
  - j. The preliminary plan for Section 22 indicates that there is a “35' Buffer” along the frontage of Section 22 adjacent to East Marlton Avenue, and a “40' Buffer” located on the northern property line. These buffers have not been delineated on the detailed site plan or the TCPII.
9. **Transportation Planning Section**—\*[The Transportation Planning Division has reviewed the detailed site plan application referenced above.] The Transportation Planning Division has reviewed the detailed site plan application submitted in response to the remand. The subject property is located along the extension of Heathermore Boulevard, between MD 382 and the Popes Creek Railroad line. The property in question is 77.16 acres and is zoned R-T. These are portions of the property termed “East Marlton” that are proposed as a residential development. The application includes the development of 396 townhouses within the three sections.

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Vehicular and pedestrian access within the site is acceptable. Adequate right-of-way in accordance with the master plan exists along Heathermore Boulevard and East Marlton Avenue.

In reviewing the previous plan, there was a concern that Section 22 was being planned with an inadequate street connection to Section 25. While Section 25 does not yet enjoy preliminary plan approval, staff had a great concern that the access could greatly limit the uses and layout of Section 25. The current plan, however, revises the street through Section 22 to a primary residential street, and this is acceptable.

This site plan includes a significant extension of Heathermore Boulevard over the Popes Creek Railroad tracks, and this plan should be specifically reviewed by DPW&T. Specifically, there should be assurances that the design of the roadway over the railroad tracks has been coordinated with DPW&T and Conrail, the owner and operator of the railroad tracks.

As noted previously, the subject property is part of a larger project that was the subject of a 1993 traffic study, and which has been approved pursuant to a finding of adequate public facilities made in 1993 for Preliminary Plan of Subdivision 4-93078 for East Marlton, Sections 18 through 22. That approved preliminary plan considered the development of 139 detached residences and 433 townhouses. Taken together, the subject plan and DSP-03035 include the development of 100 detached residences and 396 townhouses—a 13 percent decrease in the level of development

that was assumed at the time of preliminary plan. Insofar as the basis for the preliminary plan findings is still valid, and in consideration of the materials discussed earlier in this memorandum, the transportation staff finds that the subject property will be adequately served within a reasonable period of time with transportation facilities that are existing, programmed, or which will be provided as a part of the development if the development is approved.

The subject property is located along the extension of Heathermore Boulevard, between MD 382 and the Popes Creek Railroad line. The property in question is 77.16 acres and is zoned R-T. These are portions of the property termed "East Marlton" that are proposed as a residential development. The application includes the development of 396 townhouses within the three sections.

Vehicular and pedestrian access within the site is acceptable. Adequate right-of-way in accordance with the master plan exists along Heathermore Boulevard and East Marlton Avenue.

Section 22 includes a 60-foot public street that is intended to serve a future section of East Marlton to the west of Section 22 that current plans would suggest will be developed with multifamily housing. Regardless of the type of development planned for that future section, it is recommended that a public street be shown on the plan for access across Section 22. However, the county

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Department of Public Works and Transportation (DPW&T) has generally opposed townhouses along public streets. Furthermore, the original preliminary plan arrayed the townhouses along several private drives that intersected the primary residential street serving Section 22 and future sections. As they have not seen this configuration with the use of a public street to directly serve the townhouses, the Planning Board must refer this plan to DPW&T, and have assurances that this arrangement will be acceptable to DPW&T prior to approval of this plan. Without such assurances, it is likely that the applicant will have great difficulty in obtaining the needed permits from DPW&T at the time that he/she plats and commences construction.

This site plan includes a significant extension of Heathermore Boulevard over the Popes Creek Railroad tracks, and this plan should be specifically reviewed by DPW&T. Specifically, there should be assurances that the design of the roadway over the railroad tracks has been coordinated with DPW&T and Conrail, the owner and operator of the railroad tracks.

As noted previously, the subject property is part of a larger project that was the subject of a 1993 traffic study, and which has been approved pursuant to a finding of adequate public facilities made in 1993 for Preliminary Plan of Subdivision 4-93078. Insofar as the basis for those findings is still valid, and in consideration of the materials discussed earlier in this memorandum, the transportation staff finds that the subject property will be adequately served within a reasonable



period of time with transportation facilities that are existing and/or programmed.

10. **Department of Parks and Recreation**—\* No comment was given on the revised plans submitted under the remand order, however, t[T]he staff of the Department of Parks and Recreation (DPR) [has] reviewed the originally submitted plans for conformance with rezoning applications A-9730-C and 9731-C, Preliminary Plan 4-93078, and recorded Recreation Facilities Agreement (RFA) Liber 8036, folio 460. DPR has many concerns with the submitted plans and with the completion of the recreational facilities.

DPR's first concern deals with the submitted TCPII plan. The plan shows tree conservation on the 100-acre linear park to be dedicated to M-NCPPC. The applicant is required to construct an 18-acre lake, a trail around the lake, access roads and parking lots on the north and south sides of the 100-acre dedicated park. Boundaries of the dedicated parkland are not shown on the plan. The plan does not show the location of the required recreational facilities, and it does not appear that the facilities can be provided while using the park for tree conservation. The applicant should revise the TCPII plan to show the boundaries on the 100-acre park and to show the 18-acre lake, trails, access roads and parking lots.

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In May 1995, DPR staff and the applicant reached an agreement regarding tree conservation and the planned park including the following:

- 18 acres of the dedicated 100-acre park could be placed in a tree conservation easement in order to mitigate proposed development in East Marlton, Sections 18-22.
- The developer would complete a trail loop around the 18-acre lake and expand the proposed parking lots to accommodate 15 additional parking spaces on each of the two lots on dedicated parkland.

Approved TCPI/48/93 plan for East Marlton designated 18 acres of tree conservation on the dedicated 100-acre park. The current plan does not appear to address the previous agreement or allow space for the park facilities.

DPR's second concern deals with the requirement to amend the existing Recreation Facilities Agreement (RFA) (Liber 8036, folio 460). Condition 7 of Preliminary Plan 4-93078 required amending the RFA and recording it among the land records of Prince George's County prior to signature approval of Preliminary Plan 4-93078. Two amendments to the RFAs should be required. The first amendment to the RFA deals with the timing of the approval of the detailed construction plans for the Grandhaven Avenue Park, submission of the performance bond, and a park completion date. On October 8, 1996, the Commission

and the developer (Lake Marlton Limited Partnership) executed an “Agreement to Amend Public Recreational Facilities Agreement,” but there is no evidence in the file that this amendment had been recorded in the land records. Unless the applicant can provide evidence that the amendment has been recorded, this amendment should be recorded prior to signature approval of the detailed site plans. In addition, a second amendment to the RFA (Liber 8036, folio 460) is required to add the previously promised additional recreational facilities (trail on the west of the lake to complete the trail system around the lake, 15 additional parking spaces on each of the two parking lots) to the RFA. There is no evidence in the file that the RFA had been amended and recorded in land records. The applicant should work with DPR to add this change to the amendment to the existing RFA and record a second amendment to the RFA. In addition, the RFA recorded in Liber 8036, folio 462 states:

**The developer shall construct on that portion of its property being subdivided or land pertaining to the Marlton community, the public recreation facilities approved by the Prince George’s County Planning Board, to wit:**

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**Facilities:**

**East Marlton**

- A. 100-acre Park Dedication**
- B. 18-acre recreational lake**
- C. Trails along the lake through park**
  - a. 8' wide asphalt trail**
  - b. 6' wide asphalt trail**
- D. Asphalt parking lot at each end of the lake, with 15 spaces and access road.**

**Grandhaven Avenue M-NCPPC Park (Brandywine Country Neighborhood Park)**

- A. Open Play Area**
- B. Two Tennis Courts**

**C. Asphalt parking lot of 25 spaces with access road.**

**All recreation facilities and 18-acre lake shall be completed within two years of all Commission and/or County approvals and issuance of permits for those facilities. All trails, parking lots and access roads for and around the lake shall be complete upon delivery of the 2,000<sup>th</sup> building permit in the East Marlton or within two years of completion of the lake.**

**Signed Agreement to Amend Public RFA (Liber 8036, folio 460) states: Plans for Grandhaven Avenue M-NCPPC Park (Brandywine Country Neighborhood Park) shall be submitted to the Parks Department for approval prior to signature approval for any Detailed Site Plan in East Marlton. Performance bonds shall be submitted to the Park Planning and Development Division two weeks prior to any building permits in East Marlton. The park shall be complete before the issuance of any grading or building permits in East Marlton.**

The language of the RFA above requires that the design plans for the M-NCPPC park be approved prior to signature approval of any detailed site plans within East Marlton. It further requires that the park be completed prior to issuance of any grading or building permits for East Marlton.

11. **Trails Review**—\* No comment was given on the revised pans submitted under the remand order, however, t[T]he Adopted and Approved Subregion VI Master Plan identifies one master plan trail that impacts the subject application. The master plan recommended an equestrian trail along the western edge of the subject site, with a connection to the east toward the school site. This connection, as well as other proposed trails in the vicinity of the subject site, utilized former haul roads that run through the property.

However, at the time of preliminary plan 4-93078, it was determined that these trails were not feasible to implement. Several properties had been platted for subdivision prior to the approval of the Subregion VI master plan. The location of the areas approved for residential development prohibited the retention of the trail in this location. For these reasons, the hiker/equestrian trail was not required at the time of preliminary plan. Finding 11 from approved preliminary plan 4-93078 discusses this issue and is reiterated below.

**The Adopted and Approved Subregion VI Master Plan includes the location of a hiker/equestrian trail on the property. The proposed location of the trail coincides with a former haul road which was located on the property and used by horseback riders in the past. Even though the master plans contains the proposed location of the trail, the recommended trail network cannot be implemented on the subject property since it would be located in an area that is proposed for residential development which had been approved prior to the approval of the master plan and is also included in the subject application. For this reason, staff did not require that the hiker/equestrian trail be shown on the preliminary plat.**

Condition 26 of 4-93078 is clear that the ultimate road cross sections used will be determined by

the Department of Public Works and Transportation. The submitted site plan reflects a standard sidewalk along the east side of East Marlton Avenue, but no sidewalk along the west side. Staff feels that a sidewalk is appropriate along the subject application's frontage of the west side of East

Marlton Avenue to provide improved pedestrian access to the Board of Education site which is immediately to the north of Section 22 along East Marlton Avenue. This sidewalk will accommodate pedestrians walking out of Section 22 along Street "A" and up the west side of East Marlton Avenue to the school site.

12. Section 27-285(b)(3) states that the Planning Board may approve a detailed site plan for infrastructure if the Planning Board finds the plan satisfies the:

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- a. Site Design Guidelines as stated in Section 27-274. This section states that grading should minimize environmental impacts. It appears that the subject Detailed Site Plan has not minimized the grading and is impacting significant environmental features on the site.
- b. Prevents off-site property damage.
- c. Prevents environmental degradation to safeguard the public health, safety and welfare and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge.

- \*[13. For the reasons stated in the findings above, and based on citizen testimony at the public hearing on April 15, 2004, the Planning Board found that the applicant did not meet the burden of submitting an application that sufficiently addressed the environmental issues as stated in Section 27-285 above.]

13. **Remand:** This case was reviewed by the Prince George's County Planning Board on April 15, 2004, and DSP-03033 and TCPII/143/03-01 were disapproved, subject to findings contained in PGCPB Resolution 04-73. The applicant appealed the Planning Board's decision and the District Council reviewed the case. On November 22, 2004, the District Council remanded this case back to the Planning Board.

The Sections of the Order of Remand are quoted below and responses are provided.

**A. To fulfill the purposes of the Zoning Ordinance, as stated in Section 27-102 (a) of the**

**Zoning Ordinance. In particular, the general police-power purposes on subsection (a)(1), as well as the interrelated assurances for the orderly and environmentally sound growth and development purposes of subsections (a)(2), (a)(4), (a)(6), (a)(10), (a)(13) and a(14) shall be addressed by the Technical Staff and Planning Board.**

Section 27-102 lists the general purposes of the Zoning Ordinance. The specific requirements for the different types of uses and procedures set out in the Zoning Ordinance are designed to meet these 15 purposes. Each stage of development is designed and regulated pursuant to these purposes. Each stage of development, from the very general (zoning) to the specific (site plan review) is unique and as such, has its own specific set of criteria for review and approval. And each stage has its own set of findings necessary for approval. It is within these findings at each different stage of the development process that the purposes of the Zoning Ordinance are upheld. Section 27-102 (a)(1)-(4) are addressed at stages earlier in the process and are presumed to be satisfied at the time of detailed site plan approval.

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However, to emphasize the relationship of this detailed site plan to the General plan and the governing master plan as required in 27-102 (a)(2), this application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. Further, this application conforms to the Low Urban residential land use recommended in the 1993 Subregion VI Study Area Master Plan. On page 92 of the Subregion VI Master Plan, the section on the Marlton Community contains the following guidance text: "It is recommended that Marlton continue to be designed and built with close attention to maintaining aesthetic standards, creating minimal environmental damage, providing effective circulation and satisfying other basic concerns." The revised Detailed Site Plan is in conformance with this master plan due to the revisions that have been made to reduce the overall environmental impacts of the proposed development.

Sections (a)(6) and (a)(10) were addressed on the originally approved plans in the clustering of townhouses and keeping them away from adjacent properties.

Section (a)(13) and (a)(14) are addressed by the revised plans through the revised placement of the road crossing of the PMA for Heathermore Boulevard and a variety of other changes to the plan that have resulted in a significant reduction in the overall impacts to the PMA. This purpose of the Zoning Ordinance supports the road crossing of the PMA for Heathermore Boulevard. Several other road crossings have been eliminated altogether in an effort to reduce areas of impact that are necessary for the development of the property.

**B. To allow the applicant to revise and resubmit DSP-03033 concurrently with the related detailed site plan for East Marlton, Sections 19 and 20, which was remanded to the Planning Board to reflect the results of a negotiated agreement between the**

**parties.**

The applicant submitted revised plans for review by the staff and Planning Board on February 23, 2005 along with the companion case DSP-03035. A draft of a negotiated written agreement between the parties has been submitted to the Planning Department. On April 11, 2005, staff met with the applicant and a representative of the citizen's association and the following provisions of the agreement were discussed:

Sections 18, 21 and 22 (DSP-03033)

**4.1 Developer commits to building townhomes in these sections containing the following luxury characteristics:**

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- a. A minimum of sixty percent (60%) of all townhome units shall have a front façade (excluding gables, bay windows, trim and doors) of brick, stone, or stucco.**
- b. All endwalls of units shall have a side façade (excluding gables, bay windows, trim and doors) of brick, stone, or stucco.**
- c. The majority of townhome unit widths shall be a minimum of 22 feet wide.**
- d. The majority of townhome end units shall be 24 feet wide.**

Comment: The requirements above should be added to the detailed site plan as conditions of approval. For purposes of clarification, the staff suggests that (c) above be revised to include the term "interior" and that the term majority in (c) and (d) above be defined or deleted.

**4.2 Lake Marlton, L.P, further agrees to abide by the following additional conditions regarding the architectural design of the townhome units.**

- a. To convey the individuality of each unit, the design of abutting units should avoid the use of repetitive architectural elements and should employ a variety of architectural features and designs such as**

roofline, window and door treatments, projections, colors, and materials.

- b.** Attention should be given to the exterior finish material's aesthetic appearance of the offset of buildings.
- c.** The minimum gross living space, which shall include all interior space except garage and unfinished basement or attic area shall be one thousand two hundred and fifty (1,250) square feet.

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- d.** Side and rear walls shall be articulated with windows, recesses, chimneys, or other architectural treatments. All endwalls shall have a minimum of two (2) architectural features. Buildings on lots where endwalls are prominent (such as corner lots, lots visible from public spaces, streets, or because topography or road curvature) shall have additional endwall treatments consisting of architectural features in a balanced composition, or natural features which shall include brick, stone or stucco.
- e.** Above-grade foundation walls shall either be clad with finish materials compatible with the primary facade design, or shall be textured or formed to simulate a clad finish material such as brick, decorative block, or stucco. Exposed foundation walls of unclad or unfinished concrete are prohibited. On highly visible lots as viewed from the public ROW, where walkout basements are proposed, the endwall exterior materials shall extend to grade.

Comment: The requirements above should be added to the detailed site plan as conditions of approval.

- 4.3** PMA impact areas which occur in areas off lot but not within utility easement areas where allowed will be reforested to Prince George's County standards. Where reforestation areas are adjacent to proposed lots, reforestation shall be modified to include a mix of plant material sizes including material up to two (2) inches in diameter. For areas within proposed utility easements, reforestation shall consist of seedlings as allowed

**by the governing agency.**

Comment: The Environmental Planning Section has no objection to additional reforestation where allowable, but not all of the proposed replanting areas may be appropriate for credit as woodland conservation. In townhouse areas, woodland conservation areas are set back a minimum of ten feet from lot property lines, in order to allow free access around the outside of the townhouse “stick.” Reforestation in utility easements that cannot meet the standard of “perpetual woodlands” also cannot be credited as woodland conservation. As proposed in the agreement, the Environmental Planning Section generally requires an edge of larger stock trees in order to define afforestation areas, in addition to the provision of long-term and/or permanent tree protection devices.

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Recommended Condition for DSP-03033: Prior to certificate approval of the Detailed Site Plan, the TCPII shall be revised to enhance reforestation efforts in areas of the PMA that have been impacted to the extent possible and to County standards. Where reforestation areas are adjacent to lots, reforestation shall include a mix of plant materials in sizes up to two inches in diameter. All reforestation areas in the vicinity of residential units shall be provided permanent fencing using an attractive fencing material such as two-rail split rail fencing or equivalent. Reforestation of PMA impacts for utility easements shall be subject to the approval of the governing agency, and shall not be credited as woodland conservation. All other reforestation areas will be required to meet the provisions of the Woodland Conservation Ordinance in order to be credited.

**4.4 The proposed stream crossing in Section 21 shall utilize a bottomless culvert to minimize impacts to the existing stream.**

The Environmental Planning Section supports the use of bottomless culverts to minimize impacts and promote wildlife movement in existing streams whenever feasible.

Recommended Condition for DSP-03033: The stream crossing into Section 21 from Heathermore Boulevard shall utilize a bottomless culvert to minimize impacts to the existing stream. The Detailed Site Plan and TCPII shall show this feature, and the DSP shall show a detail of the culvert.

**4.5 The site plan shall be revised to reflect an off-road trail connecting one section to another to reflect the trail system envisioned by the Marlton Official Plan; alignment to be determined by Park and Planning staff.**



Comment: This condition will be analyzed by the trails coordinator prior to the Planning Board hearing and staff will report the findings at the public hearing.

**4.6 The developer agrees to delete the following lots from the current site plan submissions in Sections 18 and 21.**

**a. Section 18—Delete lots 58, 72-76, 85, 121, 127-129.**

**b. Section 21—Delete lots 9-12, 17-21, 35-44, 73-78, 54-59, 85-88.**

Comment: Staff recommends that a condition be added to the recommendation section of this report requiring the removal of the above lots prior to signature approval of the plans.

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**C. Pursuant to Section 27-290 (d) of the Zoning Ordinance, to allow the Technical staff to review the revised detailed site plan (DSP-03033) for Sections 18, 21, and 22 in conjunction with its review of previously remanded DSP-03035 for Sections 19 and 20.**

The plans were sent out on referral, reviewed, comments have been received and incorporated into this report where appropriate. The review has been conducted in conjunction with the review of DSP-03035.

**D. The applicant and parties of record in opposition have testified before the Council that an overall review of the entire area covered by these site plans would be more comprehensive in scope and of benefit to all, and that they intend to make reasonable efforts to negotiate an agreement. The Council finds that this request is appropriate to ensure that the concerns of the Friends of Croom and other parties of record are addressed.**

The plans have been reviewed in a comprehensive manner by the staff. The plans as submitted will result in reduced impacts to the Patuxent River primary management area.

- \*14. DSP-03033 shows a modification to the location of the intersection of Heathermore Avenue with East Marlton Avenue approximately 300 to 400 feet south of the original location in order to avoid sensitive environmental features. The proposed change is requested to minimize the environmental impacts associated with the location of the intersection as currently shown on the Detailed Development Plan. The proposed relocation of this intersection retains the basic approved circulation pattern for East Marlton: a collector road providing access to East Marlton from Heathermore Avenue, which functions as a major collector road throughout Marlton. The relocation will have a slight impact on a site shown for institutional use on the Detailed Development Plan. However, this revision (to DSP-03033) shows substantial conformance to the Detailed Development Plan. Based upon the information in the record, the proposed revision to

DSP-03033 is in accordance with the Marlton Official Plan.

- \*15. The proposed development conforms to the zoning subcategories of the Official Plan. The Detailed Development Plan, and is in conformance with the conditions of approval of A-9730 embodied in Zoning Ordinance No. 10-1990, which rezoned 431.5 acres of land to the R-P-C (R-R, R-80, R-35, R-T and R-10) Zones.

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NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and \*[DIS]APPROVED the Type II Tree Conservation Plan (TCPII/143/03) and further \*[DIS]APPROVED Detailed Site Plan DSP-03033 for the above-described land subject to the following conditions:

- \*1. Prior to signature approval of the plans, the following changes or information shall be submitted:
- a. The plans shall be revised to show the 50-foot building restriction line as measured from East Marlton Avenue.
  - b. The plans shall be revised to demonstrate conformance to Section 4.7 of the *Landscape Manual*.
  - c. Rear yards oriented toward East Marlton Avenue shall be buffered in accordance with Section 4.6 of the *Landscape Manual* and an easement shall be provided.
2. Prior to the issuance of any grading permits, a Phase IB (Identification) archeological investigation shall be completed and evidence of M-NCPPC staff concurrence with the investigations and/or report shall be provided.
- a. If it is determined that archeological resources exist in the project area, the applicant shall provide a plan for:
    - (1) Evaluating the resource at the Phase II level, and, if necessary,
    - (2) Conducting Phase III investigations by avoiding and preserving the resource in place, or mitigating through Phase III recovery.
  - b. As part of the Phase IB investigation, the area on the subject property that is adjacent to the Claggett family cemetery shall be tested using shovel test excavations and probes to

identify any possible burial remains that are outside the existing cemetery boundaries.

- c. The investigation shall follow the standards and guidelines in the Maryland Historical Trust's *Standard and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994). Archeological excavations shall be spaced along a regular 20-meter or 50-foot grid and excavations shall be clearly identified on a map to be submitted as part of the report. The report shall follow report and editorial standards in *Standards and*

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Guidelines for Archeological Investigations in Maryland (Shaffer and Cole 1994), and the American Antiquity or Society for Historical Archaeology style guide, and cite whether a submittal is a Draft Report or Final Report on the cover and inside cover page of the document, along with the relevant development case numbers.

3. Prior to signature approval, plans shall be revised to clearly label the Claggett family cemetery. Prior to any construction, the applicant shall place temporary fencing to mark the limits of the family cemetery to avoid disturbance during construction.
4. Prior to the issuance of any building permits for Section 21 and 22, evidence of fulfillment of the following shall be submitted:
  - a. The applicant shall rough grade a minimum of two acres and deed to an entity designated by the Citizens Association of Marlton a youth center site of approximately 3.3 acres.
  - b. The applicant shall develop in West Marlton the two park/school sites according to plans submitted to the Citizens Association of Marlton and dependent on approval by the appropriate county agencies. Sites are located off Grandhaven and Trumps Hill Road.
5. Prior to signature approval of the TCPIL, the applicant shall revise the tree conservation plan to show the conceptual boundary of the 100-acre park. The plans shall include a conceptual layout of the 18-acre lake, trail access roads, and parking lots on dedicated parkland prior to approval of the TCP- II/143/03-01. The plans shall be amended to remove the tree conservation on dedicated parkland except the 18 acres as previously agreed upon.
6. Detailed construction drawings for Grandhaven Avenue Park (Brandywine Country Neighborhood Park) shall be submitted to DPR for review and approval prior to signature approval.
7. The existing "Agreement to Amend Public Recreational Facilities Agreement" signed on October 8, 1996, by the Commission and developer (Lake Marlton Limited Partnership)

shall be recorded in Prince George's County Land Records prior to signature approval of the above detailed site plan.

8. Prior to signature approval, the applicant shall submit evidence that the Department of Public Works and Transportation has reviewed and approved the configuration with the use of a public street in Section 22 to directly serve townhouses. If the DPW&T does not agree with the proposal to line the public street with townhouses as shown on the plan, the units shall be eliminated.

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9. The impacts resulting from the grading and construction of stormwater management areas 1, 5 and 6 to the Primary Management Area shall be in conformance with impacts approved at the time of preliminary plan approval.
10. Prior to certificate approval of the DSP, clear written documentation of the amount of woodland conservation, which is acceptable to the Department of Parks and Recreation on the future park dedication, shall be submitted.
11. Prior to certificate approval of the detailed site plan, revise the DSP and TCPII as follows:
- a. Clearly delineate and label the proposed stormwater management areas 1, 5 and 6.
  - b. Clearly label any parcel or site proposed to be dedicated to the Department of Parks and Recreation.
  - c. Delineate the Patuxent River Primary Management Area on sheets 12, 13 and 14 (TCP) to include all perennial streams and a minimum of 50 feet of preserved or established vegetation on the side of each bank; the 100-year floodplain; all wetlands adjacent to the perennial stream or the 100-year floodplain; all areas having slopes of 25 percent or greater abutting or adjoining the perennial stream, the 100-year floodplain or stream-site wetlands; all areas having highly erodible soils on slopes of 15 percent or greater abutting the perennial stream, the 100-year floodplain or streamside wetlands; and specific areas of rare or sensitive wildlife habitat as determined by the Planning Board.
  - d. The 100-year floodplain shall be delineated on the plans and clearly labeled.
  - e. Minimize impacts, to the extent possible, to the Patuxent River Primary Management Area resulting from the extension of Logging Trail Way from Section 18 to Section 19.
  - f. Use the term "PMA" on sheets 12, 13 and 14 (TCP) and eliminate the use of other terms.
12. Prior to certificate approval of the detailed site plan, the Department of Parks and Recreation shall review the design and location of all stormdrain outfalls, stormwater management facilities,

and/or utility easements adjacent to land owned or to be dedicated to M-NCPPC, to ensure that they have been designed to minimize impacts to the delineated Patuxent River Primary Management Area and sensitive environmental areas on lands to be conveyed to, or now owned by, M-NCPPC.

13. Prior to certificate approval of any revision to the TCPII that proposes woodland conservation on lands owned by or to be conveyed to M-NCPPC, written approval from the Department of Parks and Recreation shall be submitted.

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14. Prior to certificate approval of the TCPII or final plat, whichever precedes, an approved floodplain study for the existing 100-year floodplain shall be submitted.

15. At the time of final plat, conservation easements shall be described by bearings and distances. The conservation easements shall contain the delineated Patuxent River Primary Management Area except for the areas of approved impacts. 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.”

16. Prior to certificate approval of the DSP, the TCPII shall be revised as follows:

- a. Use a single, multizone umbrella woodland conservation worksheet that covers the entire area of the TCPII, now or as revised in the future.
- b. Provide corrected quantities where necessary to determine the woodland conservation requirements.

17. Prior to certificate approval of the detailed site plan, revise the TCPII as follows:

- a. Remove the soil boundaries and soil labels from the plan.
- b. Add the TCPII number to all approval certificates on the plans.
- c. On sheet 34 of 65, show the location of the specimen tree, delineate its critical root zone, and identify any specialized management requirements if the root zone is impacted.
- d. Add the appropriate Environmental Planning Section edge management notes related to the preservation of trees to the plan.

- e. Remove all woodland preservation areas from the limits of the [proposed] existing 100-year floodplain.
- f. Correct the delineation of the “stream valley buffer” (SVB) on the plans to “stream buffer” (SB).
- g. Have the revised plans signed and dated by the qualified professional who prepared it.

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- 18. Prior to certificate approval of the DSP and TCPII, the limits of disturbance shown on the two plans shall be the same.
- 19. Prior to certificate approval of the detailed site plans, TCPII sheets that are not part of Section 18 through 22 shall be revised to add the following note:  
  
“The delineation of the 100-year floodplain, nontidal wetlands, and Patuxent River Primary Management Area (PMA) shown on this plan sheet is not approved as part of the TCPII. The approval of the PMA for this plan sheet will be based on a Detailed Forest Stand Delineation for the remainder of TCPII/143/03, which is required to be submitted with the first new preliminary plan application occurring within the limits of TCPII/143/03(East Marlton).”
- 20. Prior to the issuance of grading permits for the construction of East Marlton Boulevard, a protection area defined by tree protection devices shall be shown on the TCPII around the cemetery location on the Board of Education property if grading is proposed within 100 feet of the surveyed limits of the cemetery.
- 21. Prior to the issuance of grading permits for Heathermore Boulevard Extended, off-site woodland impacts shall be addressed through the revision of TCPIIs or the issuance of letters of exemption for all affected properties. All off-site properties affected shall be clearly labeled as to ownership, parcel identification, detailed site plan case number, preliminary plan case number, and/or TCPI/TCPII number if applicable.
- 22. Prior to the issuance of a grading permit, copies of the approved sediment and erosion control plans and the proposed technical stormwater management plans shall be submitted.
- 23. Revise the detailed site plan and TCPII to show a treatment appropriate to their intended purpose for the 35-foot-wide landscape buffer and the 50-foot-wide noise buffer along the frontage of Section 18, adjacent to East Marlton Avenue.
- 24. At the time of final plat, the 35-foot-wide landscape buffer and 50-foot-wide noise buffer along the frontage of Section 18, adjacent to East Marlton Avenue, shall be shown on the plat. The

following notes shall placed on the record plat:

“The landscape buffer shown on this plat is an area of landscaping adjacent to a collector road in accordance with the requirements of the Prince George’s County *Landscape Manual* as shown on Detailed Site Plan DSP-03033 or as revised in the future.”

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“The noise buffer shown on this plat is an area designated to provide a separation between the collector road and residential uses where no residential structures can be placed.”

25. Prior to certificate approval of the DSP, revise the detailed site plan and TCPII to delineate a 35-foot-wide buffer along the frontage of Section 22, adjacent to East Marlton Avenue, and show an appropriate landscape treatment adjacent to a collector road based on the Prince George’s County *Landscape Manual*.
26. Prior to certificate approval of the DSP, revise the detailed site plan and TCPII to delineate a 40-foot-wide buffer between Section 22 and the adjacent Board of Education site and show an appropriate bufferyard treatment between adjacent uses based on the Prince George’s County *Landscape Manual*.
27. At time of final plat for Section 22, the 35-foot-wide buffer adjacent to East Marlton Avenue and the 40-foot-wide buffer adjacent to the Board of Education property shall be delineated. The following notes shall placed on the record plat:

“The buffers shown on this plat are areas of landscaping adjacent to a collector road and/or adjacent uses in accordance with the requirements of the Prince George’s County *Landscape Manual* and as shown on Detailed Site Plan DSP-03033, or as revised in the future.”
28. Per the concurrence of DPW&T, the applicant shall include a six-foot-wide hiker/biker trail standard sidewalk along the subject application’s entire frontage of the west side of East Marlton Avenue to better accommodate pedestrian movement to the north and south of Section 22.
29. Prior to construction and release of any building permits for the referenced site, approval of all construction elements related to said railroad crossing must be bonded and permitted through DPW&T. A construction and maintenance agreement will be required by DPW&T.
30. Prior to the issuance of building permits, the plans shall demonstrate that a minimum of 60 percent of all townhouse units shall have a front façade (excluding gables, bay windows, trim and doors) of brick, stone, or stucco.

31. Prior to approval of any building permits, a revision to the Detailed Site Plan for the approval of architectural elevations shall be approved, and the plans shall demonstrate the following:

- a. All endwalls of units shall have a side façade (excluding gables, bay windows, trim and doors) of brick, stone, or stucco.

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- b. A minimum of sixty-six percent (66%) of interior lots shall be 22 feet wide.
- c. A minimum of sixty-six percent (66%) of end units shall be 24 feet wide.
- d. To convey the individuality of each unit, the design of abutting units should avoid the use of repetitive architectural elements and should employ a variety of architectural features and designs such as roofline, window and door treatments, projections, colors, and materials.
- e. To give careful attention to the exterior finish materials and the aesthetic appearance of the offset of buildings.
- f. The minimum finished living area, which shall include all interior space except garage and unfinished basement or attic area, shall be one thousand two hundred and fifty (1,250) square feet.
- g. Side and rear walls shall be articulated with windows, recesses, chimneys, or other architectural treatments. All endwalls shall have a minimum of two (2) architectural features. Buildings on lots where endwalls are prominent (such as corner lots, lots visible from public spaces, streets, or because of topography or road curvature) shall have additional endwall treatments consisting of architectural features in a balanced composition, or natural features which shall include brick, stone or stucco.
- h. Above-grade foundation walls shall either be clad with finish materials compatible with the primary facade design, or shall be textured or formed to simulate a clad finish material such as brick, decorative block, or stucco. Exposed foundation walls of unclad or unfinished concrete are prohibited. On highly visible lots, as viewed from the public right-of-way, where walkout basements are proposed, the endwall exterior materials shall extend to grade.

32. Prior to signature approval of the plans, the following shall be demonstrated:

- a. The TCPII shall be revised as follows:



- i. All PMA impact areas that occur in areas off lots, but not within utility easement areas shall, at a minimum, be reforested to Prince George's County standards. Where reforestation areas are adjacent to proposed lots, reforestation shall consist of a minimum per acre mix of eighty-two (82) two inch (2") caliper trees, one hundred sixty-five (165) one inch (1") caliper trees and three hundred thirty (330) protected seedlings. All reforestation areas in the vicinity of residential units shall

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be provided permanent fencing using an attractive fencing material such as two-rail split rail fencing or equivalent.

- ii. For areas within proposed utility easements, reforestation shall, at a minimum, consist of protected seedlings as allowed by the governing agency and shall not be credited as woodland conservation.

- b. The stream crossing into Section 21 from Heathermore Boulevard shall utilize a bottomless culvert to minimize impacts to the existing stream. The detailed site plan and TCPII shall show this feature, and the DSP shall show a detail of the culvert. The off-road trail described in c below, shall go up and over the culvert, rather than under the culvert, if feasible.

- c. The site plan shall be revised to reflect an off-road trail connecting one section to another to reflect the trail system envisioned by the Marlton Official Plan. The trail shall provide a connection to the 100-acre park through Section 22, if possible. Alignment of trails shall be determined by Park & Planning staff.

- d. Developer shall incorporate a hiker/biker trail adjacent to or within the Heathermore Blvd. and East Marlton Ave. roadway right-of-ways with both a minimum width and separation from the roadway of six (6) feet.

33. Prior to signature approval the following lots shall be deleted from the plans:

- a. Section 18 – Delete lots 58, 72-76, 85, 121, and 127-129.
- b. Section 21 - Delete lots 9-12, 17-21, 35-44, 73-78, 54-59, and 85-88.

34. Prior to certificate approval of DSP-03033, the TCPII and the Landscape plan shall be revised to provide plant material to reforest the slopes of Heathermore Boulevard and to reforest the slopes designed to incorporate the off-road trail system within the limits of disturbance to Prince George's County standards (Woodland Conservation stocking requirements) using indigenous plantings. Said plantings shall consist of a minimum per acre mix of eighty-two (82) two inch

(2") caliper trees, one hundred sixty-five (165) one inch (1") caliper trees and three hundred thirty (330) protected seedlings, subject to review by Park and Planning staff and/or county staff as applicable. The reforestation and planting shall not be considered in meeting the requirements

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for any Tree Conversation Plan (TCP), but considered in addition to, not in lieu of, said requirements.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with the District Council of Prince George=s County within thirty (30) days following the final notice of the Planning Board=s decision.

\* \* \* \* \*

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 Eley, seconded by Commissioner Harley, with Commissioners Eley, Harley, Vaughns, Squire and Hewlett voting in favor of the motion absent at its regular meeting held on Thursday, April 21, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12<sup>th</sup> day of May 2005.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:SHL:meg

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