

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 on April 16, 2009, regarding Detailed Site Plan DSP-03035/01 for East Marlton, Sections 19 and 20, the Planning Board finds:

1. **Request:** The subject application requests the approval of a detailed site plan (DSP) for 93 single-family detached dwelling units in the R-R and R-80 Zone.

2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-P-C, R-R and R-30	R-P-C, R-R and R-30
Use(s)	Vacant	Single-family detached
Total Acreage	97.69	97.69
Section 19		61.56
Section 20		36.13
Total Lots	0	93
R-R Zone		68
R-80 Zone		25
Parcels	3	3
Square Footage/GFA	N/A	N/A

3. **Location:** The site is in Planning Area 82A, Council District 9. More specifically, it is located on the northwest side of Croom Road, immediately across from its intersection with Croom Airport Road.
4. **Surrounding Uses:** Section 20 of the subject project is bounded to the north by Section 21 (townhomes, the subject of Detailed Site Plan DSP-03033/01) and Section 19 (single-family residential, also a part of this detailed site plan) of the Marlton development, with agricultural land beyond; to the west by East Marlton Avenue with Section 22 (townhomes, the subject of Detailed Site Plan DSP-03033/01) of the Marlton development beyond; to the east by vacant land and existing single-family detached development; and to the south by existing single-family residential detached development.

Section 19 of the subject project is bounded to the north by land in agricultural use; to the west by Sections 18 and 21 (townhomes, the subject of Detailed Site Plan DSP-03033/01); to the east by land in agricultural use and existing single-family detached use and to the south by Section 20 and

existing single-family residential development.

5. **Previous Approvals:** The site under review is the subject of Basic Plan Amendments A-6696-C, A-9730-C, and A-9731-C/03. The site is also the subject of Preliminary Plan of Subdivision 4-93078, approved by the Planning Board on March 31, 1994. The resolution of approval, PGCPB Resolution No. 94-112, containing 26 conditions, was adopted on May 5, 1994. Since that time, several extensions have been approved by the Planning Board. Planning Board Resolution No. 04-224, adopted on October 28, 2004, is the only adopted resolution that is associated with one of the prior approved extension requests. On April 24, 2008, the Planning Board approved a one-year extension request. A letter requesting an additional two-year extension has been submitted to Subdivision staff and will be considered by the Planning Board in coming weeks. See Finding 8 for a detailed discussion of the requirements of PGCPB Resolution No. 94-112. Detailed Site Plan DSP-03035 was originally approved by the Planning Board on December 18, 2003. On January 8, 2004, the Planning Board adopted PGCPB Resolution No. 03-277. On February 23, 2004, the District Council considered the case and remanded it to the Planning Board. On April 15, 2004, the Planning Board again approved the case and adopted PGCPB Resolution No. 03-277 on the same day. On September 13, 2004, the District Council again considered the case and remanded it to the Planning Board. The Planning Board again approved the case on April 21, 2005 and adopted a resolution formalizing that approval on May 12, 2005. The District Council then finally issued an order approving the case on March 13, 2006. Detailed Site Plan DSP-03035 expired on March 13, 2009 and the applicant is submitting an identical application at this time for consideration together with architectural model types to be utilized in the subdivision.
6. **Design Features:** The site is accessed from East Marlton Avenue by a winding road known as Logging Trail Way. At the northernmost curve of Logging Trail Way, a short cul-de-sac, River Rock Court, provides frontage for five single-family detached home lots. Logging Trail Way itself, as it extends in a generally eastern direction, provides frontage for an additional 20 single-family detached home lots before terminating into Cliff Rock Road. A cul-de-sac at the northern terminus of Cliff Rock Road provides frontage for an additional three single-family detached home lots and a small cul-de-sac toward the northern end of Cliff Rock Road provides frontage for an additional four single-family detached home lots. The remainder of Cliff Rock Road provides frontage for an additional 37 single-family detached home lots. Toward the southern end of Cliff Rock Road, White Tail Drive branches off in a western direction providing frontage of the remaining 24 lots. Section 19 is by far the larger of the two sections and encompasses all the lots aforementioned except for 23 of the single-family detached home lots fronting on White Tail Drive (Lots 3–25) and two lots on the western side of Cliff Rock Road, just south of its intersection with White Tail Drive, for a total of 25 single-family detached home lots for Section 20.

Architectural models and their base suggested for use in the subject project, grouped by builder, include:

Builder/Models	Base Finished Area (square feet)
Hovnanian Homes	
Delaware	2,821
New Hampshire I and II	2,850
Maine II	3,534
Hancock II	2,478
Oregon	3,321
Dakota	2,581
Oxford	3,027
Advantage Homes	
Abbey	3,313
Calvert	3,863
Fillmore	2,438
Grant	5,204
Bancroft	3,388
Drexel	4,241
Van Buren	2,885
Ryan Homes	
The Balmoral	3,893
The Highgrove	3,576
The Waverly	3,189

7. **Zoning Ordinance:** The application has been reviewed for compliance with the requirements of the Zoning Ordinance in the R-R, R-80 and R-P-C Zones and the site plan design guidelines of the Zoning Ordinance.
- The subject application is in conformance with the requirements of Section 27-441, which governs permitted uses in residential zones. The proposed single-family residential development is a permitted use in the R-R, R-80 and R-P-C Zones.
 - The proposal is also in conformance with the requirements of Section 27-442 regarding additional regulations for development in residential zones.

- c. The application is also in conformance with the requirements of Section 27-177.01 regarding the effect of an approved official plan in the R-P-C Zone.
8. **Preliminary Plan of Subdivision 4-93078:** On March 31, 1994, the Planning Board approved Preliminary Plan 4-93078 for East Marlton, including Sections 18–22, which consisted of 181 acres, divided into 572 lots and 16 parcels. The resolution of approval, PGCPB Resolution No. 94-112, containing 26 conditions, was adopted on May 5, 1994. Since that time, several extensions have been approved by the Planning Board. PGCPB Resolution No. 04-224, adopted by the Planning Board on October 28, 2004, is the only adopted resolution that is associated with one of the prior approved extension requests. On April 24, 2008, the Planning Board approved a one-year extension request. A letter requesting an additional two-year extension has been submitted to Subdivision staff and will be considered by the Planning Board in coming weeks. The relevant conditions of that approval are included in **bold** face type below, followed by staff comment:

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.**

The proposed development is 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, provided the approval is made subject to the conditions found in the Recommendation section of this report. See Finding 10 for a more detailed discussion of that compliance.

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.**

Since the time of the approval of Preliminary Plan 4-93078, the authority of approving stormwater management has shifted from the Department of Environmental Resources (DER) to the Department of Public Works and Transportation (DPW&T). In a memorandum dated March 16, 2009, DPW&T stated that the proposed detailed site plan is consistent with Stormwater Management Concept Plan No. 22351-2001-01, dated August 30, 2006. Thus the applicant has met the intent of this condition.

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 800th building permit.**

- b. The applicant, his heirs, successors and/or assigns, shall bond and start construction of the lake by the issuance of the 1,000th 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 1,100th building permit.**

This condition is being carried forward in the event these triggers fall within the window of the issuance of the 93 permits involved in the subject plan.

- 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, 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.**

Since this condition has an indeterminable trigger, it is being brought forward in the Recommendation section of this report.

- 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 1,100th building permit.**

Since this condition has an indeterminable trigger, it is being brought forward in the Recommendation section of this report.

- 20. Approval of the Type I Tree Conservation Plan, TCPI/48/93, as revised per staff recommendations and Staff Exhibit 3. [Note: computations will need to be revised and 3 copies of the approved plan submitted prior to certification of the Preliminary Plat]. A Type II Tree Conservation Plan shall be approved as part of any Detailed Site Plan.**

Type II Tree Conservation Plan TCPII/143/03-01 is recommended for approval with conditions, together with the subject detailed site plan.

- 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.

Should the subject detailed site plan be approved this condition would be complied with for Sections 19 and 20.

9. **Landscape Manual:** The site is subject to the requirements of Sections 4.1, 4.6 and 4.7 of the *Prince George's County Landscape Manual*. Staff has reviewed the submitted landscape plans and found them to be in conformance with the requirements of the Landscape Manual. Staff has also reviewed the buffering requirements of the prior District Council decision for enhanced buffering for Lots 23–24 and 25–33 of Section 19 and found the submitted landscape plans to be in conformance.
10. **The Marlton Official Plan, A-6696, A-9730, and A-9731 as amended:** Sections 19 and 20, part of the development known as “East Marlton Phase I,” which is a subpart of a larger community known as Marlton, was placed in the Planned Community (R-P-C) 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 Potomac Electric Power Company (PEPCO) line, and known as East Marlton, was amended via Zoning Map Amendment A-9730-C in 1990.

The proposed development conforms to the requirements of the zoning subcategories of the Official Plan and the Detailed Development Plan. The proposed development was also reviewed for conformance with the conditions of approval of A-9730 as specified 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) Zone. The following conditions of Zoning Ordinance No. 10-1990 formalizing the approval of A-9730, included in **bold** face type below, have not been superseded by current law and are relevant to the subject case:

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;**

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 plan did not include the 100-acre park. However, the next preliminary plan that is submitted for review will be required to show the entire 100 acres of 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 already completed golf course and were fulfilled at the time of its construction. Condition 5 requires a chain-link fence south of the subject property and is not relevant to this detailed site plan.

d. Resolution of the appropriate location for a library.

This issue will be raised at the time of future preliminary plans of subdivision for Marlton, when the issue of need and location will be addressed.

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.**

This condition, as per the Official Plan for Marlton, relates to the properties west of proposed East Marlton Avenue and thus does not relate to the subject property.

- 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.**

The subject plan is designed as a cluster 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.**

Section 20 has direct frontage on, but no direct vehicular access to, proposed East Marlton Avenue allowing existing vegetation to be retained, which will be enhanced by additional plantings. Further, a cul-de-sac provides access to units backing up to open space between the lots and future East Marlton Avenue, where a substantial swath of existing trees will remain along this frontage, providing an adequate buffer between the rear of the units and proposed East Marlton Avenue. However, the plans should be revised to include the building restriction line and a recommended condition below would require that revision be made prior to signature approval of the plans.

- g. An appropriate system of community-wide pedestrian and bridle trails shall be developed.**

The Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area (Planning Areas 79, 82A, 82B, 86A, 86B, 87A, 87B) identifies two master plan trails 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. This connection utilized former haul roads found throughout the land area covered by the Marlton Official Plan. However, at the time of Preliminary Plan 4-93078, it was determined that these trails were not feasible to implement because several properties had been platted prior to the approval of the Subregion VI master plan and their design made it impossible to retain the trail where originally intended. Therefore, 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, its recommendation in this regard cannot be implemented/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.”

The master plan also recommends that Croom Road (MD 382) be designated as a Class III bikeway with appropriate signage. Staff recommends the provision of “Share the Road” signage along the subject property’s frontage of Croom Road, plus the provision of a wide asphalt shoulder, per the concurrence of the Maryland State Highway Association (SHA), to safely accommodate bicycle traffic.

The adopted and approved Subregion VI master plan recommends that Croom Road (MD 382) be designated as a Class III bikeway with appropriate signage. Because Croom Road is a state right-of-way, the applicant and the applicant’s heirs, successors, and/or assignees shall provide the installation of one “Share the Road with a Bike” sign in accordance with state requirements. However, prior to the Planning Board conditioning the placement of the signs, SHA should have the opportunity to review the proposed locations to ensure they are acceptable. The developer would purchase the signs from the state and install them in accordance with the state’s Manual on Uniform Traffic Control Devices dealing with the section on bicycle facilities. A note shall be placed on the final record plat that installation will take place prior to the issuance of the first building permit (See attached letter from SHA dated February 28, 1996). The construction of a wide, asphalt shoulder is recommended along the subject property’s entire frontage of MD 382, per the concurrence of SHA.

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.**

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.

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.**

The proposed detailed site plan conforms to this condition. No vehicular or pedestrian connection to Croom Road is proposed.

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:**

54	1-acre R-R lots
90	½-acre R-R lots
359	¼-acre lots
283	zero lot line R-35 lots
713	Townhouse R-T lots
0	Garden Apartments
680	R-10 units
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2,179	Total Residential Units

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 Townhouse (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 Section 19 from 73 to 68 and in Section 20 from 64 to 25, and is well within the parameters established by this condition.

11. **The requirements of the Prince George's County Woodland Conservation Ordinance:** The project is subject to the requirements of the Prince George's County Woodland Conservation Ordinance because the subject site has been the subject of prior approved tree conservation plans. Further, it may be said to be in compliance with the relevant sections of that ordinance because the Environmental Planning Section, in a memorandum dated February 20, 2009, recommended approval of TCPII/143/03-01, subject to the conditions contained in Amended Corrected Resolution PBCPB No. 03-277(C)(A)/2 and those conditions have been included in the Recommendation section of this report.

12. **Planning Board Analysis:**

Historic Preservation—The Planning Board finds that the proposed application will have no effect on existing historic sites, resources or districts.

Archeology—The Planning Board makes the following findings with respect to the archaeological aspects of the subject site:

The subject property comprises approximately 97.79 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 18th and 19th centuries the home place of the Claggett family. 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 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 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—the brick wall had been reduced to rubble, the fence was largely destroyed, and the remaining tombstones removed or broken. 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..." This house, which was of wood frame construction dating from the eighteenth century, was destroyed by fire in December 1856. Remains of the house foundation have been observed close to the cemetery.

The archaeological-related findings may be summarized as follows:

- a. The Claggett Family Cemetery is located on Parcel 68, a 42.13-acre parcel of land acquired in 1969 and still owned by the Prince George's County Board of Education, adjoining the proposed subdivision road east of Section 20. 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 (November 25, 1970), recorded in Prince George's County Land Record 3899:9-11, the Claggett Family Cemetery with right of ingress and egress was transferred to the Board of Education.
- b. 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).
- c. The developing property is part of the eighteenth 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 slave quarters, domestic and agricultural outbuildings, and possible additional burials have not been determined.
- d. An archeological assessment was completed for the subject property in 2004 (Assessment of Archaeological Potential for the Lake Marlton Project Croome, Prince George's County, Maryland, Edward Otter and Cynthia Pfanstiehl, 2004). No fieldwork was completed for this assessment. That report recommended a Phase I archeological survey, to include pedestrian walkover reconnaissance and subsurface excavations to search for historic or prehistoric archeological sites.
- e. A Phase IB archeological survey is required under Condition 29 of PGCPB Resolution No. 03-277(C)(A)/2 for DSP-03035, which states that:

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:**
 - i. **Evaluating the resource at the Phase II level, and, if**

necessary,

ii. **Conducting Phase III investigations by avoiding and preserving the resource in place or mitigating through Phase III recovery.**

b. **The investigation should follow the standards and guidelines in the Maryland Historical Trust's Standards 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 should be clearly identified on a map to be submitted as part of the report. The report should follow report and editorial standards in Standards and 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.**

In conclusion, the Planning Board found that:

- a. The revised detailed site plan shows that the Claggett Family Cemetery will not suffer adverse effects from grading for the proposed subdivision road (East Marlton Avenue).
- b. A Phase IB archeological survey on the subject property is required under Condition 29 of PGCPB Resolution No. 03-277(C)(A)/2. Since the subject property includes land that was once part of the large antebellum plantation known as Croome, documentary and archeological investigation will be required to determine whether there exists physical evidence of slave dwellings or burials, as well as evidence of prehistoric Native American presence.
- c. Section 106 review may require archeological survey for state or federal agencies. A single condition regarding further archeological investigation has been included in the subject approval.

Community Planning—The Planning Board found that the application conforms to the low suburban and suburban residential land use recommended in the 1993 Subregion VI Study Area master plan as well as the 2009 *Preliminary Subregion 6 Master Plan and Proposed Sectional Map Amendment*.

Transportation—The Planning Board found the project to be in compliance with transportation-related Conditions 3, 5, and 6 of A-9730-C, Conditions 2 and 3 of A-9731-C, and Condition 26 of 4-93078. Additionally, they stated that the layout of the site is acceptable and

adequate right-of-way in accordance with the master plan exists along East Marlton Avenue. They pointed out, however, that the subject plan is far different from the original preliminary plan. Under the preliminary plan, Section 20 had a direct connection to East Marlton Avenue and that street continued onto a spine street serving Section 19. This plan has a spine road serving Section 19 continuing to East Marlton Avenue through Section 18, with a cul-de-sac serving Section 20. This is consistent with the earlier Detailed Site Plan, DSP-03035, and that plan determined that there was functional consistency with the preliminary plan. Circulation within the site is acceptable.

Further, they noted that the subject property is part of a larger project which 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-03033 include the development of 93 detached residences and 396 townhouses—a 14 percent decrease in the level of development that was assumed at the time of preliminary plan. In so far as the basis for those findings is still valid, and in consideration of other transportation-related issues, they found that the subject plan complies with the necessary findings for a detailed site plan as those findings may relate to transportation.

Subdivision—All of the property is subject to Preliminary Plan 4-93078, approved by the Planning Board on March 31, 1994. The resolution of approval, PGCPB Resolution No. 94-112, was adopted on May 5, 1994. Since that time, several extension requests had been approved to extend the validity period of Preliminary Plan 4-93078. PGCPB Resolution No. 04-224, adopted on October 28, 2004, is the only adopted resolution associated with one of the prior approved extension requests. On April 24, 2008, a one-year extension request was granted. Currently, the preliminary plan remains valid until April 28, 2009 or until a final record plat is approved. On February 16, 2009, the applicant submitted a letter to the Subdivision Section requesting that an additional two-year extension be granted to the preliminary plan approval. The applicant's extension request will be considered within the coming weeks, and if granted, would further extend the validity period of the preliminary plan to a future time period specified by the Planning Board. The property is subject to the conditions contained in the resolution of approval (PGCPB Resolution No. 94-112). See Finding 8 for a detailed discussion of the relevant conditions of that approval.

Further, they stated that they relied on the Urban Design Section's indication that the layout of the subject detailed site plan is identical to the plan previously approved by the Planning Board and were able to find it in conformance with the approved Preliminary Plan of Subdivision (4-03078) and the conditions of approval as embodied in PGCPB Resolution No. 94-112. In conclusion, they stated that there are no subdivision issues at this time.

Trails—The trails-related conditions of the original approval of the subject detailed site plan stand. They included a provision for bikeway signage and paved shoulders along Croom Road and

a trail around the 18-acre lake. Also, they found that, consistent with other sections of Marlton, standard sidewalks should be provided along both sides of all major roads running through the residential development (including Logging Trail Way and Cliff Road) with a standard sidewalk being provided along one side of all culs-de-sac).

Permits—Their numerous comments have been addressed in the conditions of approval below.

Fire/EMS Department—In a memorandum dated March 1, 2009, the Prince George's County Fire/EMS Department offered comment on needed accessibility, private road design, and the location and performance of hydrants.

Department of Public Works and Transportation (DPW&T) — In a memorandum dated March 16, 2009, DPW&T stated that they had no objection to the architectural models proposed for and the reapproval of the original site plan for the property. They stated, however, that their previous comments, made in a memorandum dated April 4, 2005, were still applicable. These comments included design parameters for the roads under their jurisdiction (Logging Trail Way and Cliff Rock Road between Logging Trail Way and White Tail Drive) including conformance with the County Road Ordinance, DPW&T Specifications and Standards and the Americans with Disabilities Act. Street tree, lighting, and sidewalk design would likewise have to meet DPW&T standards. Additionally, they mentioned that all improvements within the public right-of-way would have to be dedicated to the County. In closing, they stated that the proposed detailed site plan is consistent with the approved Stormwater Management Concept Plan No. 22351-2001-01, dated August 30, 2006.

Washington Suburban Sanitary Commission (WSSC)—No comment has been received from WSSC for inclusion in the subject staff report.

Maryland State Highway Administration (SHA)—In a letter dated March 3, 2009, SHA stated that they have no objection to approval of the subject detailed site plan and deferred to the recommendation of the Maryland-National Capital Park and Planning Commission (M-NCPPC) concerning the project.

PEPCO—Staff has not received comment from PEPCO for inclusion in the staff report.

Verizon—In an email received March 27, 2009, Verizon specified where they would like trees and other landscaping to be removed from the public utility easement.

Parks—Pursuant to a review of the submitted plan for conformance with rezoning applications A-9730-C and A-9731-C, Preliminary Plan of Subdivision 4-93078, and recorded recreational facilities agreement (Liber 8036, Folio 460), they recommended the following conditions:

- a. The applicant shall revise the Type II tree conservation plan (TCP II) to show the boundaries of the 100-acre park. The plans shall include the location and grading of the

18-acre lake, trails, access roads, and parking lots on dedicated parkland prior to approval of TCPII/143/03. The plans shall be amended to remove the tree conservation on dedicated parkland except the 18 acres, as shown on approved Type I Tree Conservation Plan TCPI/48/93. The plans shall be approved by DPR prior to signature approval of TCPII/143/03.

- b. Detailed construction drawings for the 18-acre lake, trails, parking lots, and access roads in the 100-acre dedicated park (including a grading plan, limits of disturbance, lake construction details, and trail sections and details) shall be submitted to DPR for review and approval prior to approval of the 600th building permit in East Marlton.
- c. Detailed construction drawings for Grandhaven Avenue Park (Brandywine Country Neighborhood Park) shall be submitted to DPR for review and approval prior to signature approval of any detailed site plan in East Marlton.
- d. Prior to certificate approval of Detailed Site Plans DSP-03035/01 and DSP-03033/01, whichever comes first, the recreational facilities agreement recorded in Liber 8036, Folio 460 shall be amended to include an additional segment of the trail which will create a loop around the 18-acre lake and address the expansion of the parking lots to accommodate 15 additional parking spaces on each of the two lots. If for any reason, the applicant and the applicant's heirs, successors and/or assignees are unable to obtain the permits for the construction of the 18-acre lake, the applicant and the applicant's heirs, successors and/or assignees shall work with the Department of Parks and Recreation, Park Planning and Development Division, to renegotiate the recreational facilities package for the 100-acre linear park in order to provide appropriate replacement facilities.
- e. 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 Detailed Site Plans DSP-03033/01 and DSP-03035/01.

Environmental Planning Section—The Planning Board found that DSP-03035/01 and Type II Tree Conservation Plan TCPII/143/03-01 could be approved if that approval was made subject to the environmentally-related conditions of the resolution of approval for the preceding detailed site plan. The current approval has been made subject to those same conditions.

- 13. The detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9 of the Prince George's County Code without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.

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 APPROVED the Type II Tree Conservation Plan (TCPII/143/03-01) and further APPROVED Detailed Site Plan DSP-03035/01, East Marlton, for the above-described land, subject to the following conditions:

1. 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. The investigation shall follow the standards and guidelines in the Maryland Historical Trust's Standards 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 should follow report and editorial standards in Standards and 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.
 - c. The approved sediment and erosion control plan and the proposed technical stormwater management plans for East Marlton, Sections 19 and 20, shall be submitted to confirm conformance with the approved detailed site plan and TCP II.
2. Prior to certification of the plans, the applicant shall make the following revisions to the plans and/or submit additional specified materials:
 - a. A note shall be added to the plans stating that architectural elevation drawings of all approved models shall be maintained on-site in the sales office.
 - b. A note shall be added to the plans stating that all side elevations shall have a minimum of two architectural features and side elevations on highly visible lots as identified on staff's Exhibit 1 shall have a minimum of four architectural features in a reasonably symmetrical arrangement.
 - c. Identical models shall not be located directly adjacent or across the street from each other.

- d. A minimum of 50 per cent of the units shall have brick front facades. This percentage shall include the units on highly visible lots as identified on applicant's Exhibit 1, which shall utilize brick for both side elevations as well.
3. Prior to issuance of a building permit for each individual lot, dimensions and number of parking spaces, material utilized for the driveway, house type, including number of stories, dimensions for all options, setbacks and square footage, and percentage of lot coverage shall be provided.
4. Prior to signature approval of TCPII/143/03, the following revisions shall be made:
 - a. The TCP II shall be revised to show the conceptual limits of the 100-acre linear park and to clearly label the site proposed to be dedicated to the Department of Parks and Recreation.
 - b. The DSP and TCP II shall be revised to delineate the Patuxent River Primary Management Area (PMA) on the proposed park site where grading impacts are proposed so the extent of impacts can be evaluated.
 - c. The TCP II shall be revised to show all grading proposed for the purpose of implementing Heathermore Boulevard and East Marlton Avenue onto the park site so impacts can be assessed. This shall include the proposed limits of disturbance, proposed stormwater management facilities, sediment and erosion control facilities, outfalls, and proposed public utility easements.
 - d. The Department of Parks and Recreation (DPR) and Environmental Planning Section shall review the design and location of stormdrain outfalls, stormwater management facilities and/or utility easements associated with the implementation of Heathermore Boulevard and East Marlton Avenue to ensure that they have been designed to avoid adverse impacts to the Patuxent River PMA and sensitive environmental areas on land to be conveyed to or owned by M-NCPPC. DPR shall give final approval for the location and design of these facilities.
 - e. Any woodland conservation to be proposed on lands owned by or to be conveyed to M-NCPPC shall receive written approval from DPR.
5. Prior to certificate approval of the detailed site plan, the TCP II and DSP shall be revised as follows:
 - a. The plans shall show 40 feet of right-of-way dedication from the centerline of Croom Road.

- b. The plans shall show a 10-foot utility easement adjacent to the right-of-way, if required by the utility companies.
 - c. No woodland preservation shall be credited in the right-of-way or public utility easement.
 - d. The plans shall delineate and label the “undisturbed buffer zone” in accordance with the previously approved preliminary plan.
 - e. A note shall be added to the plan stating that Croom Road is a designated historic road.
 - f. The plans shall be revised to remove all grading from the “undisturbed buffer zone.”
 - g. The lot design shall be revised so that all house pads shall be located a minimum of 40 feet from the “undisturbed buffer zone” in order to provide an active rear yard area. In the event that a 40-foot rear yard is not provided, then a split rail fence or equivalent shall be provided along the conservation easement.
 - h. The PMA shall be delineated for wetlands located on the adjacent site to the west of the subject property.
 - i. Grading impacts onto adjacent property shall be labeled and quantified. A note shall be added to the plans which states:

“Off-site impacts to woodland, nontidal wetlands and wetland buffers are proposed as part of this plan. Grading into this area will require: Permission of the property owner; submittal of a TCP II or Letter of Exemption from Woodland Conservation; and wetlands permits as required by federal and/or state permitting authorities.”
6. Prior to certificate approval of the DSP, an approved existing 100-year floodplain study shall be submitted and delineated on the plans, including the TCP II.
7. Prior to certificate approval of the DSP, a jurisdictional determination or a copy of the surveyed nontidal wetlands submitted to the U.S. Army Corps of Engineers for approval shall be submitted. If a jurisdictional determination is not available prior to certificate approval, it shall be submitted prior to any grading permits that affect wetlands.
8. Prior to certificate approval of the DSP, the TCP II shall be revised to delineate the Patuxent River PMA, per Section 24-101 of the Subdivision Ordinance, where no PMA was delineated at the time of preliminary plan and/or where new grading impacts are now proposed. All other areas of PMA shall be delineated as shown on the previously approved preliminary plan.
9. Prior to certificate approval of the DSP, the TCP II and DSP shall be revised to minimize impacts,

to the extent possible, to the Patuxent River PMA resulting from the extension of Logging Trail Way between Sections 18 and 19.

10. Prior to approval of the final plat, conservation easements shall be described by bearings and distances. Conservation easements shall contain the delineated Patuxent River PMA except for areas of approved impacts shown on the preliminary plan, or as amended by the approval of the DSP. 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.”
11. Prior to the delineation of woodland preservation areas or grading outside of Sections 18 through 22, or grading approved for roadway construction as part of those approvals, a detailed forest stand delineation (FSD) shall be submitted for the remainder of TCP II/143/03, or as revised and expanded in the future.
12. Prior to certificate approval of the DSP, TCP II/143/03-01 shall be revised to use a phased woodland conservation worksheet that covers the entire area of the TCP II. Woodland conservation areas shall 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. TCP II/143/03-01 shall also be revised to be at a consistent scale of one inch equals 30 feet.
13. Prior to certificate approval of the TCP II, the following revisions shall be made:
 - a. Provide a legend on each plan sheet that includes all graphic symbols used on that sheet.
 - b. Revise each sheet to be a defined polygon (or polygons) with a specific area and provide match lines to indicate how the polygons fit together to cover the entire area of the TCP II.
 - c. Clearly delineate and emphasize the outside boundary of the TCP II.
 - d. Provide a woodland conservation summary chart on each sheet that shall include the following information:
 - (1) The total area of the sheet and the total area inside and outside the 100-year floodplain.
 - (2) The net tract area.
 - (3) The existing woodlands inside and outside the 100-year floodplain.

- (4) Clearing proposed inside and outside the 100-year floodplain.
 - (5) Woodland conservation provided by methodology (preservation, afforestation, or reforestation).
 - (6) Total woodland conservation provided.
 - (7) Off-site woodland clearing impacts.
- e. Provide a note which indicates the source of the 100-year floodplain acreage.
- f. Add all applicable “Required Type II Tree Conservation Plan Notes” as determined by the Environmental Planning Section.
- g. Add the “Woodland Conservation Area Management Notes” related to “Removal of Hazardous Trees or Hazardous Limbs by Developers of Builders,” and “Woodland Areas NOT Counted as Part of the Woodland Conservation Requirements.”
- h. An existing tree line and all other graphic elements used on the plan shall be added to the legend.
- i. The 15 to 25 percent slopes identified on the site shall be limited to those on highly erodible soils.
- j. All individual parcels within the limits of the TCP II shall be identified and labeled.
- k. All adjacent ownerships (including Conrail, the Board of Education, and PEPCO) shall be identified and labeled.
- l. A conceptual limit shall be provided for the 100-acre linear park and the park site shall be labeled.
- m. All public utility easements and connections shall be shown.
- n. The location of all stormwater management facilities, outfalls, and grading or clearing required for their construction shall be shown.
- o. All grading proposed to occur in the first phase of development (associated with Section 18 development) shall be included on the plans.
- p. Show a single graphic symbol for “woodland preservation” and eliminate the two types of woodland preservation currently shown.

- q. Appropriate tree protection devices (TPD) shall be provided adjacent to all clearing and/or grading proposed.
- r. All woodland preservation areas and labels shall be removed from the conceptual park site until such time as these areas have been approved for use by the Department of Parks and Recreation.
- s. The woodland preservation area labels shall be revised to only include the area of woodland preservation included on the TCP II plan sheet.
- t. Woodland preservation areas shall only include areas within the delineated proposed tree line.
- u. All woodland preservation areas within the limits of Sections 19 and 20 shall be set back a minimum of 20 feet from the side and 40 feet from the rear of any single-family detached dwelling.
- v. All woodland preservation areas shall have a minimum width of 35 feet and a minimum area of 2,500 square feet.
- w. All retaining walls shall be set back a minimum of 10 feet from any woodland conservation area in order to provide a construction zone and allow for any future maintenance or reconstruction of the structure.
- x. The location of preservation protection signage shall be shown on the plans and included in the legend.
- y. Remove the floodplain buffer (FPB), which is not pertinent to the TCP II.
- z. Have the revised plans signed and dated by the qualified professional who prepared it.
- aa. TCP II, Sheet 2 of 14, shall be revised as follows:
 - (1) The location of all public utility easements and stormwater management elements shall be shown on the plan and labeled.
 - (2) All impacts to the PMA resulting from the extension of River Rock Court shall be eliminated, and a 40-foot-wide active rear yard shall be provided on all lots between the PMA and the rear of the building envelope. In the event that a 40-foot rear yard for Lot 3, Section 20 is not provided, then a split fence or equivalent shall be provided along the conservation easement.
 - (3) Nontidal wetland buffers shall be shown on the plan so impacts can be avoided

and/or assessed.

- (4) The location of the outfall from the cul-de-sac on River Rock Court shall be moved to eliminate new impacts to the PMA, 100-year floodplain, and nontidal wetland buffers.
- (5) All clearing and grading impacts proposed to Section 18, and shown as off-site impacts on this TCP II, shall be shown on the approved TCP II for Section 18.

bb. TCP II, Sheet 3 of 14, shall be revised as follows:

- (1) Woodland preservation areas will be removed from within the limits of disturbance and associated revisions shall be made.
- (2) Woodland preservation areas less than 35 feet in width may be credited as woodland conservation if the width in combination with adjacent protected trees is a minimum of 35 feet.

cc. TCP II, Sheet 4 of 14, shall be revised to remove woodland preservation from the 100-year floodplain.

dd. The TCP II shall be revised to add the following note:

“The delineation of the 100-year floodplain, nontidal wetlands and Patuxent River PMA shown outside of Sections 18–22 is not approved as part of the TCP II. The approval of the PMA outside of Sections 18–22 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).”

ee. TCP II, Sheet 7 of 19, shall be revised as follows:

- (1) The limits of the individual DSPs shall be clearly delineated and labeled.
- (2) Any grading proposed for the extension of Heathermore Boulevard east of East Marlton Avenue and not proposed as part of the current approval shall be removed from the TCP II. The haul road proposed under the current phase of development, with associated grading, limits of disturbance, and TPDs, shall be shown.
- (3) The Patuxent River PMA shall be conceptually delineated whenever grading is proposed within 100 feet. The delineation of the PMA outside of Sections 18 and 22 shall be revised in the future, as necessary, to reflect information to be

provided on the FSD and future preliminary plans.

- (4) Show the surveyed location of the cemetery located on the Board of Education property adjacent to Section 18 where grading impacts are proposed in order to construct East Marlton Avenue.

ff. TCP II, Sheet 10 of 14, shall be revised as follows:

- (1) Identify the status of woodlands remaining on lots under 20,000 square feet in area, as identified in the legend.
- (2) Identify the purpose of a break in woodland preservation occurring between Lots 56 and 57.

gg. TCP II, Sheet 13 of 14, shall be revised to remove the label stating: “3.06 acres to be used for future obligations.”

hh. The TCP II shall be revised as follows:

- (1) The grading for the haul road shall be shown and the limit of disturbance shall be revised if necessary.
- (2) The following note shall be added to the plan sheet:

“The delineation of the 100-year floodplain, nontidal wetlands, and Patuxent River PMA shown outside of Sections 18–22 is not approved as part of the TCP II. The approval of the PMA outside of Sections 18–22 will be based on a detailed forest stand delineation for the remainder of East Marlton, which is required to be submitted with the first new preliminary plan application for East Marlton.”

- 14. Prior to the issuance of grading permits for the construction of East Marlton Avenue, an appropriate protective setting shall be determined for the cemetery location on the Board of Education property if grading is proposed within 50 feet of the surveyed limits of the cemetery.
- 15. Prior to certificate approval of the TCP II, the cover sheet shall be revised to include all pertinent information for Sections 19 and 20.
- 16. Prior to the issuance of a grading permit that impacts the stream crossing between Sections 18 and 19, the area shall be redesigned in a bio-sensitive manner as follows: provide for wildlife passage, minimize the concentration of flow to reduce the potential for future erosion impacts to the stream channel, and reduce the length of the pipe.

17. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the “undisturbed buffer zone” as shown at the time of preliminary plan. The following note shall be placed on the plat:

“Croom Road is a designated historic road. Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation is prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
18. Prior to certificate approval of the DSP, conformance between the limits of disturbance on the TCP II and the DSP shall be found.
19. At the time of grading permit application, copies of the approved sediment and erosion control plans shall be submitted.
20. Prior to certification of the DSP, the site plan and landscape plan shall be revised to show the following:
 - a. Cliff Rock Road between Logging Trail Way and White Tail Drive must be revised to the primary residential standard within a 60-foot right-of-way.
 - b. The plans should be revised to include the 50-foot building restriction line as measured from proposed East Marlton Avenue.
21. The applicant shall revise the TCP II to show the boundaries of the 100-acre park. The plans shall include the location and grading of the 18-acre lake, trails, access roads, and parking lots on dedicated parkland prior to approval of TCPII/143/03. The plans shall be amended to remove the tree conservation on dedicated parkland except the 18 acres, as shown on approved Type I Tree Conservation Plan TCPI/48/93. The plans shall be approved by DPR prior to signature approval of TCPII/143/03.
22. Detailed construction drawings for Grandhaven Avenue Park (Brandywine Country Neighborhood Park) shall be submitted to DPR for review and approval prior to signature approval of any detailed site plan in East Marlton.
23. Prior to certificate approval of Detailed Site Plans DSP-03035/01 and DSP-03033/01, whichever comes first, the recreational facilities agreement recorded in Liber 8036, Folio 460 shall be amended to include an additional segment of the trail which will create a loop around the 18-acre lake and address the expansion of the parking lots to accommodate 15 additional parking spaces on each of the two lots.

24. Prior to certificate approval, the DSP and TCP II shall be revised as follows:
- a. Lots 38–41 fronting on Cliff Rock Road and abutting Croom Road at the rear property line shall be a minimum of 40,000 square feet each.
 - b. The maximum number of lots abutting Croom Road shall be no more than four.
 - c. An undisturbed minimum buffer of 100 feet shall be maintained from Croom Road.
 - d. The buffer shall be increased where it does not impact usable rear yard space for lots abutting Croom Road. Usable rear yard space shall mean forty feet of open area behind the rear of a home.
 - e. Supplemental plantings in the buffer for the purpose of enhancing the retained forest area shall be of indigenous trees and shrubs sufficient to create a visual screen. Supplemental plantings shall not be considered in meeting the woodland conservation requirements of the tree conversation plan, but be considered in addition to, not in lieu of, said requirements.
 - f. An easement preserving said buffer shall be recorded in the land records of Prince George’s County or shown on the final plat of subdivision.
25. At the time of final plat, a scenic easement as delineated on the DSP shall be established behind the public utility easement adjacent to Croom Road and a note shall be placed on the final plat as follows:
- “Croom Road (MD 382) is a county-designated Historic Road and a state-designated Scenic Byway. The scenic easement described on this plat is an area where the installation of structures and roads and/or 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.”
26. Prior to certificate approval of the plans, the following lots shall be deleted as stated below:
- a. Section 19—Delete Lots 16–19, 24, and 25. Lots 19 and 25 may be recovered if re-sited to the satisfaction of the Friends of Croom (FOC) and the Development Review Division.
 - b. Section 20—Delete Lots 4 and 5.
27. Prior to approval of any building permits, the following information shall be provided and/or the plans shall demonstrate the following:
- a. The applicant shall provide evidence of a meeting with the FOC on the architectural

elevation design of houses on Lots 31–37, which are adjacent to the Windy Oaks subdivision, and Lots 38–41, adjacent to Croom Road.

- b. The rear elevations of Lots 31–37, adjacent to the Windy Oaks subdivision, shall be enhanced with additional rear architectural features such as shutters, window trim, and/or masonry fireplaces.
 - c. The rear elevations of Lots 38–41 shall be enhanced with additional architectural features such as shutters, window trim, and/or masonry fireplaces.
28. Prior to signature approval, the plans shall be revised to:
- a. Increase the size of Lots 31–37 on Cliff Rock Road, which are adjacent to the Windy Oaks subdivision, to a minimum of 40,000 square feet each.
 - b. Provide a minimum 25-foot-wide undisturbed and/or planted buffer adjacent to Lots 1–5, Block A, of the Windy Oaks subdivision. This buffer shall be maintained as undisturbed for a minimum of 15 feet adjacent to said Windy Oaks. An evergreen screen shall be provided along the west side of the buffer. Supplemental plantings in said buffer areas, for the purpose of enhancing the retained forest area, shall be of indigenous trees and shrubs sufficient to create a visual screen. An easement preserving said buffer shall be recorded in the land records of Prince George’s County or shown on the final plat of subdivision. Supplemental plantings shall not be considered in meeting the requirements for the tree conversation plan, but be considered in addition to, not in lieu of, said requirements.
 - c. A minimum 15-foot-wide undisturbed and/or planted buffer shall be provided adjacent to Lot 6, Block A, of the Windy Oaks subdivision. This buffer shall remain undisturbed for a minimum of eight feet adjacent to said Windy Oaks. An evergreen screen shall be provided along the west side of the buffer. Supplemental plantings in said buffer areas, for the purpose of enhancing the retained forest area, shall be of indigenous trees and shrubs sufficient to create a visual screen. An easement preserving said buffer shall be recorded in the land records of Prince George’s County or shown on the final plat of subdivision.
29. The construction of the 18-acre lake shall be completed under the following schedule:
- a. The applicant and the applicant’s heirs, successors, and/or assignees shall obtain the appropriate federal, state and local permits for the construction of the 18-acre lake by the issuance of the 800th building permit.
 - b. The applicant and the applicant’s heirs, successors, and/or assignees shall bond and start construction of the lake by the issuance of the 1,000th building permit.
 - c. The applicant and the applicant’s heirs, successors, and/or assignees shall complete

construction of the lake with its recreational facilities by the issuance of the 1,100th building permit.

- d. A 50-foot-wide building restriction line shall be maintained from Marlton Avenue, within which existing vegetation shall be retained and/or landscaping provided so as to create an effective buffer and screen for the units from East Marlton Avenue.
 - e. All trees and other landscaping shall be removed from the ten-foot public utility easement and replaced as close to its original location as possible, but outside the public utility easement. Final placement of landscaping shall be approved by the Urban Design Section as designee of the Planning Board.
- 30. If for any reason the applicant and the applicant's heirs, successors and/or assignees are unable to obtain permits for the construction of the 18-acre lake, the applicant and the applicant's heirs, successors and/or assignees shall work with the Department of Parks and Recreation, Park Planning and Development Division, to renegotiate the recreational facilities package for the 100-acre linear park in order to provide appropriate replacement recreational facilities, and the renegotiated recreational facilities package shall be presented to the Planning Board for approval.
 - 31. The applicant and the applicant's heirs, successors and/or assignees shall convey the 100-acre linear park to the Maryland-National Capital Park and Planning Commission by the issuance of the 1,100th building permit.
 - 32. The applicant and the applicant's heirs, successors and/or assignees shall provide the installation of one "Share the Road with a Bike" sign in accordance with State highway requirements. A note shall be placed on the final record plat that installation will take place prior to the issuance of the first building permit.
 - 33. If improvements are required by the State Highway Administration, the applicant and the applicant's heirs, successors and/or assignees shall construct a seven to ten-foot-wide asphalt shoulder along the subject project's entire frontage of MD 382, per concurrence of the State Highway Administration.
 - 34. Detailed construction drawings for the 18-acre lake, trails, parking lots, and access roads in the 100-acre dedicated park (including a grading plan, limits of disturbance, lake construction details, and trail sections and details) shall be submitted to DPR for review and approval prior to approval of the 600th building permit in East Marlton.
 - 35. 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 Detailed Site Plans DSP-03033/01 and DSP-03035/01.

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 Clark, seconded by Commissioner Cavitt, with Commissioners Clark, Cavitt, Vaughns and Parker voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, April 16, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of May 2009.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator

OSR:FJG:RG:bjs