

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 on July 26, 2012 regarding Detailed Site Plan DSP-04045/01 for Clintondale Townhomes, the Planning Board reviewed and approved the Detailed Site Plan DSP-04045-01 for Clintondale on July 26, 2012, and PGCPB Resolution No. 12-87 was adopted on September 6, 2012, formalizing that approval;

WHEREAS, on September 24, 2012, the District Council elected to review the case, on November 19, 2012, held oral argument on the case, and on February 23, 2013, voted to remand the case to Planning Board for an additional evidentiary hearing to address specific issues concerning the detailed site plan (DSP) in accordance with Sections 27-132 and 27-290 of the Zoning Ordinance;

WHEREAS, in consideration of the evidence presented at a public hearing on July 9, 2015 regarding the remand of Detailed Site Plan DSP-04045-01 for Clintondale Townhomes, the Planning Board finds:

1. **Request:** The subject application requests the construction of a 19-lot townhome development in the Townhouse (R-T) Zone.

2. **Development Data Summary**

	EXISTING	APPROVED
Zone	R-T	R-T
Use(s)	Vacant	Residential
Acreage	4.0	4.0
Lots	18	19
Parcels	1	1

3. **Location:** The site is in Planning Area 81A, Council District 9. More specifically, it is located on the western side of the cul-de-sac at the dead end of Bost Lane.

4. **Surrounding Uses:** The subject property is bounded to the northeast by vacant woodland; to the west by an existing townhome development; to the east by From the Heart Church Ministries Inc., operating out of a former Safeway Building; and to the south by land owned by the Washington

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Suburban Sanitary Commission (WSSC) that is largely vacant except for providing a location for a water tower.

5. **Previous Approvals:** The site is the subject of Preliminary Plan of Subdivision 4-04042 and Type I Tree Conservation Plan TCP1/18/04, both approved by the Planning Board on May 13, 2004. Prince George's County Planning Board Resolution No. 04-106, was subsequently adopted by the Planning Board on June 3, 2004, formalizing the approval. The site was the subject of Detailed Site Plan DSP-04045, which was approved by the District Council on May 9, 2005, but is now expired. The site is also the subject of approved Stormwater Management Concept Plan 42265-2003, dated March 23, 2010.
6. **Design Features:** The subdivision is proposed to be accessed by a private road from a public road with a 60-foot right-of-way, Bost Lane, at its current terminus in a cul-de-sac. A small bioretention area is indicated on the southern side of its entrance from Bost Lane; the project sign, recreational area, and some landscaping are shown on the eastern side of the entrance. A recreational area detail on the plans indicates that the following facilities will be provided:
 - Two six-foot, ground-mounted picnic tables
 - One 24-inch barbecue grill
 - Two six-foot benches
 - Play equipment including dual slides, a tower, and spinners, or equal.
 - One four-foot paved walkway accessing the play area from the provided sidewalk.

An additional bench was included in the original approval and by a condition of this approval, a third bench shall be added to the plans for the project.

The entire northeasterly side of the property (2.81 acres), containing floodplain and an ephemeral stream, is proposed to be dedicated to the homeowners association (HOA). Views into the open space are provided at the entrance to the subdivision via 15-foot separations between the sticks of townhomes and at the terminus of the private road. The townhomes on the northern side of the private road are broken into three sticks: the first, accessed when entering the subdivision contains five townhomes; the second, six; and the third, five. A 25-foot separation is also provided between the last townhouse unit and the rear property line of the development. A four-foot-wide concrete sidewalk is provided only on the northeastern side of the private road.

The southwestern side of the road provides access for three lots (Lots 1, 2, and 3). Twelve additional parking spaces, including one handicapped space, are also included on the southwestern side of the private road accessing the subdivision, as is some additional landscaping. A single

Crepe Myrtle is planted in the front yard of each unit in the development, except for Lot 3. A condition of this approval requires that a tree, as required by the 2010 *Prince George's Landscape Manual*, be planted in the front yard of Lot 3.

The architecture of the project presents balanced fenestration and creates visual interest by use of accent architectural details and a mix of materials. The units are three-story, with stone veneer included as a base either on the watertable or on the entire first story of each unit, with clear architectural definition between the two materials provided by a white band at the upper limit of the stone veneer. Vinyl siding is utilized for the remainder of the front façade and architectural shingles are proposed to be utilized for the roof. The following provides additional architectural definition to the front façades:

- The window frames are prominent and defined.
- The second story windows, front entrance door, and garage doors all include transom lights.
- The front entrance door is flanked by sidelights.
- The garage door is paneled.

The architecture of the side and rear elevations includes well-balanced fenestration, evidencing the same attention to detail as the front. Side elevations include a ridge vent, clear architectural definition between stories, well-defined windows, including transom lights on all windows and doors on the lower two stories and a single arched window on the second story.

The rear elevation also offers well-balanced fenestration and transom lights above all windows and doors on the first two stories. A slight variation in the roofline and fenestration between the two proffered rear elevations (standard vs. deluxe owner suite) does not affect the aesthetics of design.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements in the R-T Zone and the site plan design guidelines of the Zoning Ordinance.
 - a. The subject application is in conformance with the requirements of Section 27-441, which governs permitted uses in residential zones. The proposed townhomes are a permitted use in the R-T Zone.
 - b. The proposal is in conformance with the requirements of Section 27-442, Regulations, regarding additional regulations for development in residential zones.

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- c. The subject project also shall conform to the requirements of Section 27-433, R-T Zone (townhouse), as necessary conditions as described below have been incorporated into the approval of the project.

As per the requirements of the Zoning Ordinance:

- There are not more than six, or less than three, dwelling units in a stick.
- The minimum width of dwellings is greater than 20 feet.
- All end walls have a minimum of two features.
- A condition of this approval ensures that above-ground foundation walls are either clad with finish materials or textured/formed to simulate a clad material.
- A minimum of 60 percent of the townhouse units are obligated to be brick, stone, or stucco. A condition of this approval requires that a note be added to the plans prior to signature approval stating that 60 percent of the townhouse units shall be brick, stone, or stucco.
- A condition of this approval requires that two or more dwelling units be identified as having the potential to be made accessible through barrier-free design.
- A condition of this approval requires that prominent façades on the side and rear of the unit on Lot 5, and the side of Lot 3 have been given special treatment.

8. **Preliminary Plan of Subdivision 4-04042:** Preliminary Plan of Subdivision 4-04042 was approved by the Planning Board on May 13, 2004. Prince George's County Planning Board Resolution No. 04-106 was adopted on June 3, 2004. The following conditions of approval apply to the approval of the subject DSP:

1. **Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:**

a. **To delete Lot 4 and incorporate that area into Parcel "A."**

c. **To add the following note:**

"At the Planning Board hearing, Lot 4 was deleted. However, the Planning Board in their decision has preserved the ability of the applicant to recover Lot 4, if at the time of DSP the applicant can demonstrate to the Urban Design Section that

adequate recreational facilities can be accommodated on-site and that the addition of Lot 4 will not adversely impact the layout. The review shall include, but not be limited to, ensuring usable yard areas on Lot 4, an attractive appearance, and securing privacy. The Planning Board advised the applicant that the matter to be determined at the time of review of the DSP relating to Lot 4 was not whether to delete Lot 4, but whether to recover Lot 4.

“The Planning Board’s decision on the preliminary plan included an evaluation of the adequacy of public facilities for a 19-lot subdivision. Therefore, the recovery of Lot 4 at the time of DSP will not constitute an increase in the number of lots approved by the Planning Board at the time of preliminary plan of subdivision.”

The applicant has chosen to include Lot 4, as shown on the preliminary plan of subdivision, on a revised DSP, for a total of 19 lots. The Planning Board supports the inclusion of a 19th lot on the southeastern end of subdivision instead of adjacent to the recreational facilities, as originally contemplated. Adequate recreational facilities have been provided for the subdivision as discussed in Finding 6 herein, and addition of lot 19, adjacent to lot 18 meets the other requirements above as follows:

1. The addition of the lot does not adversely impact the layout of the subdivision because the previous right-of-way of Absher Lane was vacated and added to the southeastern end of the subdivision, providing even greater setbacks than previously provided;
2. Usable yard areas are provided for the additional lot; and
3. Landscaping and architecture, with improvements as conditioned, provide an attractive appearance for the subject lot.

The Planning Board concludes that the revised plan meets the requirements of Condition 1.e. of Preliminary Plan of Subdivision 4-04042 and that the inclusion of lot 19 is appropriate.

4. **The applicant, his heirs, successors, and/or assignees shall provide adequate, private recreational facilities in accordance with the standards outlined in the Park and Recreation Facilities Guidelines and subject to the following:**
 - a. **The applicant, his heirs, successors, and/or assignees shall allocate appropriate and developable areas for the private recreational facilities on homeowners association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of DRD for adequacy and property siting prior to approval of the preliminary plan by the Planning Board.**

- b. **A site plan shall be submitted to the Development Review Division (DRD) of the Prince George's County Planning Department that complies with the standards outlined in the Park and Recreation Facilities Guidelines.**
- c. **Submission of three original, executed Recreational Facilities Agreements (RFA) to DRD for their approval three weeks prior to a submission of a final plat. Upon approval by DRD, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.**
- d. **Submission to DRD of a performance bond, letter of credit, or other suitable financial guarantee in an amount to be determined by DRD within at least two weeks prior to applying for building permits.**
- e. **The developer, his successor and/or assignees shall satisfy the Planning Board that there are adequate provisions to assure retention and a future maintenance of the proposed recreational facilities.**

The recreational area detail included in the plans indicates approximately 4,000 square feet devoted to the recreational area including a tot lot with, at a minimum, dual slides, a tower, and spinners, surrounded by a 30-foot diameter mulched surface and two, six-foot, in-ground mounted park benches. A four-foot-wide paved walkway provides access to the tot-lot and benches and beyond to a barbecue area including two six-foot, in-ground mounted picnic tables and a 24-inch barbecue grill. A two-foot by six-foot redwood project sign is included at the periphery of the recreational area.

The recreational area has been reviewed and is recommended for approval by the Planning Board as to its design and siting, as well as for conformance with the Department of Parks and Recreation Facilities Guidelines, and was found to be acceptable in these respects. The applicant has agreed to, and a condition of this approval requires that the applicant, revise the plans to include a third bench that was indicated in the original approval. Additionally, a condition of this approval requires that the recreational facilities be bonded prior to issuance of the first building permit for the project and constructed prior to issuance of the ninth building permit for the project. These requirements will be reflected in a recreational facilities agreement to be executed by The Maryland-National Capital Park and Planning Commission (M-NCPPC) and the applicant and recorded in land records prior to issuance of the first building permit for the project.

7. A Type II Tree Conservation Plan shall be approved concurrent with the Detailed Site Plan.

A Type II Tree Conservation Plan (TCPII-120-04/02) has been submitted and is recommended for approval by the Planning Board together with the subject DSP.

8. The recreational facilities shall be provided at a location to be determined at the time of detailed site plan.

The recreational facilities are located at the front of the development and adjacent to the environmentally-sensitive open space portion of the site. This provides a focal point for those entering the development and enhances the play area by providing views from it into the adjacent open space.

In addition, Finding 16 of that resolution sets forth considerations to be taken into account regarding design issues. These include:

The proposed subject plan complies with Section 4.7 of the Landscape Manual along its southwesterly boundary with the R-T-zoned land provided the land is in fact vacant as indicated on the site plan. Additional information, however, would have to be provided regarding the adequacy of tree cover along the common property line with the From the Heart Church Ministries, Inc. A Type C buffer is required between townhouses and a medium impact use (the church). Existing tree cover may substitute for the required buffer, but information on tree cover is absent on the provided plan.

A letter dated October 22, 2004, from Cynthia Tuck, a consultant forester, states that existing woodland provides the plant units required along the church's boundary and a Section 4.7 schedule on the plan demonstrates compliance. A condition of this approval requires that the applicant provide an updated letter prior to signature approval from a landscape architect registered in the state of Maryland certifying that the existing woodland along the shared boundary with From the Heart Church Ministries is sufficient to meet the required plant units of a Type "C" buffer.

The preliminary plan proposes a small recreational facility site at the southwesterly side of the property. According to the recreational guidelines, the recreational area must be set back at least 25 feet from streets and adjacent dwellings. The proposed recreational area does not meet this requirement. The proposed recreational area is described too amorphously to judge whether or not it is adequate. Details would be provided and adequacy judged at the time of detailed site plan review. Note that the recreational facilities must be accessible by a paved path.

The applicant has redesigned the play area so that it is set back 25 feet as required, and has provided sufficient detail to judge the adequacy of the recreational area's facilities.

For the proposed 18 lots in Planning Area 81A, a total value of approximately \$20,358 of recreational facilities is suggested for the proposed townhouse

development. Since prior phases of the subject development either did not provide, or provided only passive recreational facilities, staff would recommend an active recreational facility, specifically a tot lot with an adjacent sitting area in order to fulfill this requirement.

The applicant has provided a tot lot, sitting area, and barbeque area, in excess of the extent of facilities and amount of the recommended expenditure.

9. **The 2010 Prince George's County Landscape Manual:** The proposed development is subject to the requirements of Section 4.1, Residential Requirements; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees along Private Streets, of the 2010 *Prince George's County Landscape Manual* (Landscape Manual).

The Planning Board reviewed the proposed landscape plan and found that the submittals in compliance with the applicable sections of the Landscape Manual, with the exception of the following:

- a. The Section 4.7 landscape schedule needs to be corrected to indicate that a Type "C" bufferyard is the minimum required between the proposed townhouse use and the adjacent church.
- b. Said bufferyard should be indicated at the required width along the shared property line.
- c. The applicant should provide a current letter from a landscape architect registered in the state of Maryland stating that the existing woodland along the subject property line provides enough plant units to fulfill the requirements of Section 4.7.
- d. The applicant should provide the location of the existing shade trees within 75 feet of a dwelling unit of a minimum 2.5 diameter at breast height (DBH) noted in Schedule 4.1 to partially meet the requirements of Section 4.1 of the Landscape Manual.
- e. The landscape plan should be prepared and sealed by a landscape architect registered in the state of Maryland.

Conditions of this approval would bring the plan set into conformance with the requirements of the Landscape Manual.

10. **The Prince George's County Tree Canopy Coverage Ordinance:** The application is subject to the Woodland and Wildlife Habitat Conservation Ordinance, Subtitle 25, Division 3, which became effective February 1, 2012 and requires the provision of varying percentages of tree canopy coverage (TCC) dependent on the zoning of the site. The subject project's location in the R-T Zone requires the provision of 15 percent or 0.6 acre of the four-acre site be covered in tree

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canopy. The applicant is utilizing the 0.94 acre of woodland conservation on-site in fulfillment of tree conservation requirement to also meet his TCC requirement, as is allowed. Therefore, the applicant has fulfilled the requirements of the Tree Canopy Coverage Ordinance.

11. **The Prince George's County Woodland Conservation Ordinance:** The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in area and there are more than 10,000 square feet of existing woodland. A forest stand delineation (FSD) was approved with Preliminary Plan 4-04042. A Type I Tree Conservation Plan, TCPI/18/04, was approved by PGCPB Resolution No. 14-106.

The Planning Board has reviewed submitted TCPII-120-04/02 and approved it, subject to five conditions. Therefore, the plan is in compliance with the Woodland Conservation Ordinance.

The application is not subject to the environmental regulations that came into effect on September 1, 2010 under Subtitle 24, Subdivision or Subtitle 27, Zoning because the site has a previously approved preliminary plan and detailed site plan, and the lots have been platted.

The application is grandfathered from the Woodland and Wildlife Habitat Conservation Ordinance, Subtitle 25, Division 2, which became effective September 1, 2010 because of the prior approval of a TCPI with the preliminary plan which has been platted, even though the area of the development application has been increased.

12. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The comments are summarized as follows:

- a. **Historic Preservation**—The subject project involving 19 residential townhomes and associated parking has no effect on identified historic sites, resources, or districts.
- b. **Archeological Review**—A Phase I archeological survey is not recommended for the subject property. Further, a search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability that the location of archeological sites within the subject property is low. The subject property was previously graded in the 1960s and has been extensively disturbed.

However, Section 106 of the National Historic Preservation Act may require an archeological survey for state or federal agencies, required when their undertakings affect historic properties, to include archeological sites. This review is required when state or federal monies are utilized or federal permits are required for a project.

- c. **Community Planning**—The subject application is consistent with the 2002 *Prince George's County Approved General Plan Development Pattern Policies* for the

Developing Tier, and the application conforms to the Developing Tier land use recommendations of the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment*.

- d. **Transportation Planning**—Access and circulation are acceptable and consistent with Preliminary Plan of Subdivision 4-04042. Further, the site is not within or adjacent to any master plan transportation facilities and the preliminary plan includes no transportation-related conditions. From the standpoint of transportation, the Planning Board finds the plan acceptable.
- e. **Subdivision Review**—The Planning Board indicated that Lots 1 through 18 and Parcel A were recorded in Plat Book PM 220-94 on July 27, 2007. As the bearings, distances, and acreage on the site plan are inconsistent with the record plat and a vacated right-of-way shown on the DSP has not been consolidated with the remainder of the subject site, a condition of approval requires that the new bearings, distances, and acreage be established and reflected on a revised record plat to be approved prior to issuance of building permits for the subject project. The additional “Lot 19” shall be included at that time.

The record plat contains eight notes and those applicable to the subject approval are discussed in Finding 8, together with relevant preliminary plan Conditions 1, 4, 7, and 8. The site is subject to approved Preliminary Plan of Subdivision 4-04042. Prince George’s County Planning Board Resolution No. 04-106 was adopted by the Planning Board June 3, 2004, formalizing that approval.

The Planning Board then provided the following comments on the subject plan:

- (1) Currently, the public utility easement (PUE) is not shown along the entire street. Section 24-128(b)(12) of the Subdivision Regulations requires that, for private roads, a ten-foot-wide PUE be shown adjacent to the right-of-way. The DSP should be revised to include PUEs along the private road unless an agreement with the utility companies can be established prior to approval of the DSP.
- (2) The site plan shows the addition of an area of land that was previously a dedicated public right-of-way which was vacated by the Planning Board pursuant to Vacation Petition V-08001. A minor final plat was never filed to incorporate this area into the subject property, Parcel A. Prior to approval of any permits, a minor final plat should be approved pursuant to Section 24-108 of the Subdivision Regulations. The applicant is proposing one additional lot as permitted by the preliminary plan approval, and no new preliminary plan is required. The record plat can reflect the additional lot, incorporate the previously vacated area, adjust the property lines, and provide any additional right-of-way dedication as

necessary. These changes must be clearly delineated and labeled on the DSP in order to be changed on the record plat.

- (3) The cul-de-sac of Bost Lane on the site plan does not match the area dedicated on the record plat. The Department of Public Works and Transportation (DPW&T) stated that additional right-of-way dedication is not necessary. This inconsistency shall be reconciled prior to signature approval of the plans.
- (4) There has been question about the existence of a WSSC easement through the eastern portion of the site and shown on an approved TCPII. The record plat did not establish this easement. Unless a recorded easement in the Prince George's County Land Records is provided, this easement does not appear to be in existence and any development plans should not reflect such an easement.

DSP-04045-01 is in substantial conformance with the approved Preliminary Plan, 4-04042, as conditioned. It should be noted that the bearings, distances, lots, and blocks as reflected on the final plats must be shown on and match the DSP. Failure of the site plan and record plats to match will result in the building permits being placed on hold until the plans are corrected. There are no other subdivision issues at this time.

- f. **Trails**—The subject application does not conflict with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) or the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (area master plan) regarding the approved trails, bikeways, and pedestrian improvements. The MPOT recommends that new development contain “roadway improvements that accommodate all users” and that sidewalks be constructed along roads in the Developed and Developing Tiers of the county (page 8). The area master plan also recommends that sidewalks be constructed in conjunction with new residential development. The subject site plan indicates that sidewalks will be provided to all of the proposed units. The sidewalks will be connected to a previously approved cul-de-sac on Bost Lane. Adequate bicycle and pedestrian transportation facilities will exist to serve the proposed use.
- g. **Permit Review**—Permit Review comments have either been addressed by revisions to the plans or by conditions of this approval.
- h. **Environmental Planning**—The Planning Board has reviewed the DSP for Clintondale Townhomes, DSP-04045-01, and the Type II Tree Conservation Plan, TCPII-120-04/02, stamped as accepted for processing on May 16, 2012. The Planning Board recommends approval of Detailed Site Plan DSP-04045-01 and TCPII-120-04/02 subject to conditions of this approval.

Background

This site has been previously reviewed by the Planning Board as Pre-Preliminary Plan P-03018, Preliminary Plan of Subdivision 4-04042, and Type I Tree Conservation Plan TCPI-018-04. Preliminary Plan of Subdivision 4-04042, Type I Tree Conservation Plan TCPI-018-04, and variation requests to Section 24-130 of the Subdivision Regulations were approved by PGCPB Resolution No. 04-106 on June 3, 2004. The property was also reviewed as Detailed Site Plan DSP-04045 and TCPII-120-04, which was approved by the District Council on May 9, 2005 subject to conditions contained in the District Council's order, which has now expired.

Two development review applications since the approval of the original DSP have resulted in a change in the size and configuration of the development property. A Vacation Petition, V-05002, was approved by the Planning Board on May 19, 2005 subject to conditions contained in PGCPB Resolution No. 05-122. A second Vacation Petition, V-08001, was approved by the Planning Board on April 17, 2008 subject to conditions contained in PGCPB Resolution No. 08-02.

A subsequent revision to TCPII-120-04/01 was reviewed by the Planning Board and approved on October 14, 2011 to show impacts related to a proposed 30-foot-wide right-of-way for a WSSC public water main, but acquisition of the easement by WSSC was never completed and the TCPII revision has been declared invalid because it was not submitted with the owner's certification. The current proposal is for development of 19 lots and one parcel on four acres of land in the R-T Zone.

The subject DSP is not subject to the environmental regulations that came into effect on September 1, 2010 under Subtitle 24, Subdivisions or Subtitle 27, Zoning, because the site has a previously approved preliminary plan and DSP, and the lots have been platted.

The application is grandfathered from the Woodland and Wildlife Habitat Conservation Ordinance, Subtitle 25, Division 2, which became effective September 1, 2010 because of the prior approval of a TCPI with the preliminary plan which has been platted, even though the area of the development application has been increased.

The application is subject to Subtitle 25, Division 3, Tree Canopy Coverage, which became effective February 1, 2012.

Site Description

This four-acre property in the R-T Zone is located at Bost Lane and Absher Lane, an undeveloped public right-of-way, off Piscataway Road. According to the plans, there are streams, wetland buffer, and 100-year floodplain on the property. The site eventually drains into Pea Hill Branch in the Potomac River basin. According to the Web Soil Survey, the principal soils on this site are in the Beltsville, Croom, and Sassafras series.

Marlboro clay does not occur in the area. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, no known rare, threatened, or endangered species occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator.

This property is located in the Developing Tier as reflected in the adopted General Plan. The subject property does not contain elements of the 2005 *Approved Countywide Green Infrastructure Plan*.

Preliminary Plan of Subdivision 4-04042, PGCPB Resolution No. 04-106

On May 13, 2004, the Planning Board approved Preliminary Plan 4-04042 and Type I Tree Conservation Plan TCPI-018-04 subject to conditions contained in PGCPB Resolution No. 04-106. Environmental conditions are reviewed below:

5. The following note shall be placed on the final plat of subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI-018-04), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy.”

6. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, and shall be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

The required note referencing the TCPI was placed on the final plat. The final plat shows a conservation easement and the required note describing its purpose. The conservation easement has not been shown on the DSP or TCPII.

A condition of this approval requires that, prior to certification of the DSP, the DSP and TCPII shall be revised to show the conservation easement as delineated on the final plat of subdivision.

7. **A Type II Tree Conservation Plan shall be approved concurrent with the Detailed Site Plan.**

Type II Tree Conservation Plan TCPII-120-04 was approved with DSP-04045 by the Planning Board on September 9, 2005 in conformance with this condition of approval.

Detailed Site Plan DSP-04045, PGCPB Resolution No. 04-293

The following conditions of approval were approved by the Planning Board on December 9, 2004 and the DSP and TCPII plans were certified:

1. **Prior to certification of the detailed site plan:**
 - b. **The detailed site plan shall be revised to be consistent with approved Stormwater Concept Plan #42265-2003, as indicated by revised referral comments from the Department of Environmental Resources.**

Referral comment provided by DPW&T regarding stormwater management (SWM) for the current application will be addressed under "Environmental Review" below.

2. **Prior to certification of the Detailed Site Plan, the Type II Tree Conservation Plan shall be revised to:**
 - a. **Add the symbol for the limit of disturbance to the legend**
 - b. **Correct the spelling of floodplain**
 - c. **Delete the word "ephemeral"**
 - d. **Have Type II Tree Conservation Plan note #2 read:**

"The Department of Environmental Resources (DER) shall be contacted prior to the start of any work on the site to address implementation of woodland conservation measures shown on this plan."
 - e. **Have the revised plan signed and dated by the qualified professional who prepared the plan.**

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It appears that these revisions were completed on the TCPII prior to signature approval, but these revisions do not appear to have been fulfilled on the DSP submitted with this application, and will be discussed under "Environmental Review" below.

Vacation Petition V-05002, PGCPB Resolution No. 05-122

A petition was filed by the owners of the property on February 7, 2005 for the vacation of part of Bost Lane and all of Bost Court, formerly known as Ayrshire Lane and Ayshire Court in the subdivision of Clinton Dale, which was approved by the Planning Board on May 19, 2005 subject to the following conditions:

1. **The petitioner, Herbert H. Ray, shall grant easements to WSSC as specified in the WSSC consent letter dated October 15, 2003.**
2. **The petitioner, Herbert H. Ray, shall record a new final plat of subdivision, subsequent to the approval of this vacation petition pursuant to Preliminary Plan 4-04042 and DSP-04045, which will include the vacated area of 3.78 acres, as shown on Exhibit B-1.**
3. **As shown on Exhibit B-2, 2.2 acres of land shall revert to the Washington Suburban Sanitary Commission.**

A new plat of subdivision was recorded in the Land Records on July 27, 2007 for the vacation of Bost Lane and part of Bost Court. The recorded plat does not match the shape of the property shown in the previous DSP and TCP approval, or the property configuration currently presented.

Vacation Petition V-08001, PGCPB Resolution No. 08-62

A Vacation Petition, V-08001, was approved by the Planning Board on April 17, 2008, subject to the following conditions contained in PGCPB Resolution No. 08-62:

1. **The petitioners, KBK Associates, LLC and LOR Development Associates et Paul, LLC shall record a final plat of subdivision to incorporate the vacated area of 8,897 square feet or 0.2042 acre (Area C shown on plat of computation Exhibit B).**
2. **The petitioners, on behalf of Michael Dzaman, shall record a final plat of subdivision to incorporate 8,494 square feet or 0.1950 acre of land (Area B shown on plat of computation Exhibit B) into Parcel A, Clinton Dale Townhouses (Plat Book PM 220, plat number 94— Exhibit C). The subdivision plat will require the signature of the appropriate representative for the Clinton Dale Townhouses. Should this signature not be provided in a**

timely manner, the applicant (KBK Associates, et al) shall not be held responsible for the final plat process. Should this happen, the responsibility for recording a new final plat to incorporate vacated area in Clinton Dale Townhouses Parcel "A" shall be the responsibility of the representative of the Homeowners Association for Clinton Dale Townhouses Subdivision.

3. A total area of 3,723 square feet or 0.085 acre of land (Area A shown on plat of computation) shall revert to the Washington Suburban Sanitary Commission.

The recorded plat in the Land Records does not match the shape of the property shown in the previous DSP and TCP approval, or the property configuration currently presented with this application.

A condition of this approval requires that the applicant, prior to certification of the DSP, plat completely the legal limits of the property proposed for development, and the TCPII shall be revised to reflect the full legal boundaries of the property proposed for development under the DSP.

Environmental Review

- (1) The site does not have an approved natural resources inventory (NRI) because the preliminary plan and original DSP preceded requirements for an NRI, and the site was grandfathered from the requirements of County Council Bill CB-28-2010 by the approval of the preliminary plan, but only for that portion of the property covered by the preliminary plan. In this case, the area of the development site has been enlarged, so an NRI could be appropriately requested for the area of the property not previously covered by the preliminary plan. A review of the additional area added to the development application indicates that it touches the platted conservation easement, but does not appear to include any additional regulated environmental features, so the Planning Board finds that the environmentally-sensitive features of the site continue to be preserved to the greatest extent possible can be made.

The added site area which contains additional woodland does affect the woodland conservation threshold (WCT) and the woodland conservation area for the site. Forest stand delineation (FSD) was reviewed with the TCPI and the TCPII. Because the size and configuration of the property have changed, the FSD is no longer consistent with the area of the current application. The FSD also lacks some basic site information necessary for review of the current application. Section 27-282(e) of the Zoning Ordinance states the following:

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(e) **A Detailed Site Plan shall include the following:**

- (9) **Areas of existing tree cover, vegetation, or other natural features proposed to be retained as shown on the proposed Tree Conservation Plan.**

Because the FSD is older than five years, and has not been implemented, and the size and configuration of the development parcel have changed, the FSD plan must be revised to provide an updated FSD to address the additional area, and any additional updated information required for the review of this plan in accordance with the Environmental Technical Manual. The revised FSD must reflect the current size and configuration of the development parcel, delineate any additional areas of woodlands incorporated and indicate which stand they are part of, delineate the expanded stream buffer previously approved on the TCPII, include a site statistics table consistent with the current application, add all applicable standard FSD notes, and the areas of the tree stands noted should be revised to include the additional wooded areas now part of the plan.

A condition of this approval requires that the applicant, revise the FSD plan and FSD summary narrative TCPII to reflect and address the current configuration of the development application as outlined in the Woodland Technical Manual, and include, but not be limited to the following:

- (a) Delineate additional woodlands on the site.
- (b) Delineate and label the expanded stream buffer.
- (c) Add a site statistics table consistent with the current development application.
- (d) Revise the quantity of woodlands found on the site by stand.
- (e) Add all applicable standard FSD notes.
- (f) Show the critical root zone associated with the specimen tree shown on the plan.
- (g) Add additional graphic elements shown on the plan to the legend.
- (h) Have the revised plan signed by the qualified professional who prepared it.

- (2) This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance (WCO) because the gross tract area of the property is greater than 40,000 square feet and there are more than 10,000 square feet of existing woodland. An FSD was approved with Preliminary Plan 4-04042. A Type I Tree Conservation Plan, TCPI-018-04, was approved by PGCPB Resolution No. 04-106.

A Type II Tree Conservation Plan, TCPII-120-04, was approved with DSP-04045, and the same plan was submitted for review with the current application. The DSP approved with this TCP expired and the TCPII was never implemented. The TCPII has expired, but has not lost its grandfathering from the provisions and requirements of Subtitle 25, Division 2 effective on September 1, 2010. The TCPII submitted with the current application is subject to the requirements of the current Woodland Technical Manual.

The previously approved TCPII submitted with the current application is not sufficient for several reasons. The area of the development application has changed, so the site data is incorrect with respect to the area of the plan. The amount of 100-year floodplain is inconsistent between the plans submitted, the quantity of existing woodlands on the site has also increased, but has not been addressed on the TCPII, and the proposed tree lines are inconsistent between the DSP and the TCPII.

The layout of the site includes lots and site features which have changed, and new features are now proposed which are outside of the limits of disturbance (LOD) proposed on the TCPII. No LOD has been shown on the DSP. In addition, the LOD over the existing eight-inch sewer line crossing the property shows no woodland remaining over the sewer easement, which is an appropriate revision, but does not match the TCP treatment of this area. A determination of the WCT for the site and the requirement for the site cannot be made without confirmation of the acreage of the 100-year floodplain and until a consistent LOD between the two plans is established.

A revised TCPII in accordance with the Woodland Technical Manual is required to provide clarity, consistency and legibility to the plan, consistency with the DSP, and to include notes and details which support effective implementation of the plan in the field.

A condition of this approval requires that the applicant, prior to certification of the DSP, revise the TCPII to match the limits of the DSP, incorporate additional information provided in the updated and expanded FSD, and address the technical

and plan requirements of the Woodland Technical Manual effective as of September 10, 2010 to address, but not be limited to the following:

- (a) Revise the configuration of the development parcel to match the DSP.
- (b) Revise the site layout to match the lotting pattern and site features shown on the DSP.
- (c) Include the two-foot interval contour lines so they are legible.
- (d) Show proposed grading clearly on the plan.
- (e) Show all easements clearly, including the PUE. No woodland shall be shown with the PUE. Woodlands over the easement(s) which are outside the LOD shall be indicated as "woodland retained—assumed cleared."
- (f) The conservation easement shall be delineated on the plan.
- (g) "Tree preservation areas" shall be re-labeled as "woodland preservation" and labeled by acreage; woodland preservation areas shall be clearly indicated with a graphic pattern; the plan and the legend shall reflect standard terminology and graphic symbols found in the Environmental Technical Manual.
- (h) The term "new tree line" shall not be used on the plan; an LOD shall be shown to depict the limits of clearing and grading.
- (i) The term "old tree line" shall be re-labeled as "existing tree line" on the plan and in the legend.
- (j) The site development notes shall be consistent with the DSP.
- (k) Woodland preservation signage shall be located along the edge of the woodland preservation area on the north side of the sewer easement, and a revised detail and notes sufficient for field implementation shall be included on the plan.
- (l) A correct delineation of the 100-year floodplain, as determined by the Department of Environmental Resources (DER), shall be shown.

- (m) Revise the woodland conservation worksheet to reflect the woodland conservation requirement for the site, and how the requirement has been satisfied.
 - (n) Provide all applicable standard TCPII notes necessary to implement the plan.
 - (o) Add a TCPII approval block to the plan, and include previous valid approvals.
 - (p) Have the revised plan signed and dated by the qualified professional who prepared it.
- (3) The state Forest Conservation Act requires that woodland conservation areas have long-term protection measures in effect at all times. In the past, an approved TCPII was found to fulfill this requirement by county legal staff, but because woodland conservation areas do not appear on the record plat, or are found in the land records during a title search, property owners or HOAs are often unaware of the presence of protected woodland conservation areas.

The Woodland and Wildlife Habitat Conservation Ordinance which became effective after September 1, 2010 includes Section 25-122(d)(1)(B) which requires that woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site be placed in a woodland conservation easement recorded in the land records. This requirement applies to original TCP2 applications approved after September 1, 2010 that do not have a TCP1 approved before September 1, 2010 (in other words, non-grandfathered projects).

The recordation of a woodland conservation easement is not required prior to issuance of the grading permit for a grandfathered development application with an approved TCP2 that includes on-site woodland conservation areas, but is strongly recommended by the Planning Board in order to provide clearer protection for woodland conservation areas to property owners and HOAs who are responsible for maintaining these areas as perpetual woodland.

The woodland conservation easement documents are prepared using templates prepared in coordination with the County Office of Law and included in the appendix of the Environmental Technical Manual. A woodland conservation easement package consists of the following:

- (a) An original signed Woodland and Wildlife Habitat Conservation Easement document

- (b) Exhibit A: A legal description of the easement including metes and bounds, signed and sealed by a licensed surveyor
- (c) Exhibit B: A graphic exhibit showing the metes and bounds of the easement related to the property lines of the project location.

The woodland conservation easement package is submitted to the Planning Board for and transmittal to the County Office of Law for review and approval prior to recordation. In general, prior to signature approval of the TCP2 for this site, the liber and folio of the recorded easement shall be added to the standard Type 2 tree conservation plan notes on the plan as follows:

“Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George’s County Land Records at Liber ____ Folio _____. Revisions to this TCP2 may require a revision to the recorded easement.”

A condition of this approval requires that prior to certificate approval of the TCP2, a woodland conservation easement prepared in accordance with requirements found in the Environmental Technical Manual shall be recorded in the county Land Records, the following note shall be included on the TCP2, and the liber and folio of the recorded document shall be added to the note:

“Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George’s County Land Records at Liber ____ Folio _____. Revisions to this TCP2 may require a revision to the recorded easement.”

- (4) This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. At the time of preliminary plan, these areas were identified as the expanded stream buffer. The preliminary plan proposed impacts to the expanded stream buffers, which are prohibited by Section 24-130 unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. The existing sanitary sewer main is partially located within the expanded stream buffer.

Two variation requests for impacts to the expanded stream buffer were reviewed and approved with Preliminary Plan 4-04042.

One set of impacts to the expanded stream buffer was required for the construction of sanitary sewer connections to serve the proposed development for a total disturbance 686 square feet of the expanded stream buffer. The required connection is to the existing sewer main that is partially within the expanded stream buffer. No federal or state wetland permits will be required for the proposed impacts.

The second impact was for the construction of the cul-de-sac of Bost Lane. This will disturb a total of 95 square feet of the expanded stream buffer. The end of existing Bost Lane is partially within the expanded stream buffer. No federal or state wetland permits will be required for the proposed impact.

Both variation requests were approved by PGCPB Resolution No. 04-106 and were shown on the approved Type II tree conservation plan.

Condition 6 of PGCPB Resolution No. 04-106 reads:

At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, and shall be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

The previously approved DSP conformed to the findings and conditions of PGCPB Resolution No. 04-106 with regard to protection of sensitive environmental features, and a conservation easement was delineated on the final plat. No new regulated features which would enlarge the conservation easement which currently protects the expanded stream buffer have been identified.

- (5) The DSP shows the location of a proposed recreational area within the delineated conservation easement, and also shows a LOD line. These impacts were not approved by the Planning Board with the review of the preliminary plan, and are not appropriate.

The Subdivision Regulations mandate that the expanded stream buffer be preserved to the fullest extent possible. The Planning Board generally recommends approval of expanded stream buffer impacts for unavoidable impacts such as the installation of public road crossings and public utilities, if they are designed to preserve the expanded buffer to the fullest extent possible. The Planning Board generally does not recommend approval of expanded buffer impacts for lots, placement of recreational facilities, structures, or septic field clearing, or grading when alternative designs would reduce or eliminate the impacts.

The recreational area should be relocated outside of the delineated conservation easement, which is intended as an area of nondisturbance for the protection of regulated environmental features as determined by the Planning Board at the time of subdivision. Placement of the recreational area within the recorded conservation easement is not consistent with the buffer for regulated environmental features previously approved by the Planning Board. Further impacts to the expanded stream buffer would require a new preliminary plan to approve additional impacts that are otherwise avoidable, and not necessary for development of the site.

A condition of this approval requires that the applicant, prior to certification of the DSP, shall relocate the recreational area outside of the delineated conservation easement, and a new location for the required recreational features shall be indicated on both the DSP and TCPII plan.

- (6) The DSP contains errors and inaccuracies that need to be corrected to be consistent with the TCPII. The DSP does not include a legend which correctly labels and identifies the graphic elements on the site. The word "ephemeral" should be deleted from "ephemeral stream" because it is identified on the TCP as intermittent and therefore regulated. The word "floodplain" is erroneously spelled as "floodplane" and "flood plane."

A condition of this approval requires that the applicant, prior to certification of the DSP, revise the DSP as follows:

- (a) Add a legend with appropriate graphic symbols and terminology consistent with the wording and graphics used on the TCPII.
- (b) Correct the spelling of "floodplane" and "flood plane" to "floodplain."
- (c) Delete the word "ephemeral" from the regulated streams located on-site.

- (7) According to the Prince George's County Soil Survey, the principal soils on this site are in the Galestown, Mattapex, and Sassafras series. Beltsville and Croom soils are highly erodible. Sassafras soils are not highly erodible and are in the B-hydric group.

This information is provided for the applicant's benefit. A soils report may be required by DER during the permit review process.

- (8) An approved Stormwater Management Concept Plan, CSD 42265-2003-00, dated June 5, 2004 was submitted with the current review package. Comments received from DPW&T dated June 8, 2012 state:

The proposed site development, adding additional recreational area to the subdivision is not consistent with the approved stormwater management (SWM) concept plan. Therefore, this will require a revision to the aforementioned SWM plan. Additionally, the site development technical plan will also have to be readdressed prior to the overall approval of the detailed site plan.

Any revisions to the SWM concept, technical approval plan, or changes to the location of site elements if required by DPW&T shall be reflected on revisions to the DSP and TCPII so that the plans demonstrate consistency.

- i. **Prince George's County Fire/EMS Department**—The Prince George's County Fire/EMS Department offered information on needed accessibility, private road design, and the location and performance of fire hydrants.
- j. **Department of Public Works and Transportation (DPW&T)**—DPW&T stated that Bost Lane, as a county-maintained roadway, would be subject to DPW&T Urban Primary Residential Road Standards and Urban Residential Roadway Specifications and Standards, right-of-way dedication, and frontage improvements. In their original memorandum, DPW&T stated that the roadway layout configurations and right-of-way dedications were not in compliance with DPW&T's required specifications and standards for Bost Lane. Additionally, they stated that all proposed culs-de-sac and intersections are required to allow, as a minimum, turning movement for a standard WB-40 vehicle and a standard length fire truck. Further, they stated that, when considering a turning movement, they assume that parking is provided on the outside edge of the cul-de-sac. In a subsequent email received June 22, 2012, DPW&T reversed themselves, approving the cul-de-sac as presented on the DSP and removing the requirement that the applicant pay a fee-in-lieu.

With respect to stormwater management (SWM), DPW&T stated that the proposed site development is not consistent with approved SWM Concept Plan 42265-2003 dated

March 23, 2010. A recommended condition below would require that the applicant revise the aforementioned SWM concept plan prior to signature approval of the plans.

- k. **Prince George's County Police Department (CPTED)**—The Prince George's County Police Department did not provide comment..
- l. **Prince George's County Health Department**—The Prince George's County Health Department stated that they had completed a health impact assessment review of the DSP for Clintondale Townhomes and offered the following comment:
- Pedestrian access should be shown to the adjacent community.
 - There are five existing carry-out/convenience store food facilities within a one-half mile radius of this location. Research has found that people who live near an abundance of fast-food restaurants and convenience stores compared to grocery stores and fresh produce vendors, have a significantly higher prevalence of obesity and diabetes.
 - There is no market or grocery store within a one-half mile radius of this location. A 2008 report by the University of California, Los Angeles (UCLA) Center for Health Policy Research found that the presence of a supermarket in a neighborhood predicts higher fruit and vegetable consumption and a reduced prevalence of overweight and obesity.
 - There is an increasing body of scientific research suggesting that community gardens enhance nutrition and physical activity and promote the role of public health in improving quality of life. The developer should consider setting aside space for a community garden.
- The applicant has agreed to provide, and a condition below would require, a 144-square-foot community garden adjacent to the planned tot lot.
- m. **Washington Suburban Sanitary Commission (WSSC)**—WSSC offered comments that will be implemented through their separate permitting process.
- n. **Verizon**—In an email dated June 20, 2012, a representative of Verizon stated that there should be a ten-foot-wide PUE to every unit as well as a ten-foot-wide PUE parallel, continuous, and adjacent to the public right-of-way free and clear of all obstructions and graded at no more than a 4 to 1 slope.
- o. **Southern Maryland Electric Company (SMECO)**—SMECO did not provide comment.

13. Remand Findings:

REMAND POINT 1

Community Planning South Division found that the subject application conforms to the Developing Tier land use recommendations of the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. PGCPB Resolution No. 12-82, Community Planning South Memorandum dated June 20, 2012.

On remand, Planning Board shall determine the legal ramifications or consequences of the recent Order of the Circuit Court in CAL09-31402 that VOIDED and REVERSED the 2009 *Adopted and Approved Subregion 5 Master Plan and Sectional Map Amendment*. On remand, the Planning Board shall reevaluate, reanalyze, and state in its findings, conclusions, and disposition of this application whether or not the use as proposed in the subject application is consistent and conforms—in the absence of 2009 *Adopted and Approved Subregion 5 Master Plan and Sectional Map Amendment*—with the 1993 *Subregion 5 Master Plan and Sectional Map Amendment* or the 2002 *Prince George's County Approved General Plan*.

Comment: In the memorandum dated January 27, 2015, the Legal Department stated that the issues raised in this Remand Point have been rendered moot because during the time in which the Remand Order was issued, the February 2009 *Approved Subregion 5 Master Plan and Proposed Sectional Map Amendment* had been replaced by the newly adopted and approved July 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (SMA). Furthermore, the Legal Department stated that the recommendations for the subject property were the same in the 2013 *Approved Subregion 5 Master Plan* and SMA as they were in the 2009 *Approved Subregion 5 Master Plan* and SMA. In addition, the Legal Department stated that as there is no requirement for master plan conformance at the time of approval of a DSP, there is no opportunity to re-evaluate the use for master plan conformance in the current application since townhomes are permitted by right in the zone.

Additionally, in a memorandum dated February 3, 2015, the Transportation Planning Section also noted that a portion of Remand Point 1 makes reference to the master plan and the 2002 *Prince George's County Approved General Plan* that are no longer applicable, though the master plans would have been given consideration in the review of the application when it was originally submitted. Therefore, in that regard, the Transportation Planning Section stated that to the extent that the two referenced plans have requirements for adequate bicycle and pedestrian facilities, the subject plan is consistent with those requirements. In conclusion on this issue, the Transportation Planning Section finds that adequate pedestrian and bicycle facilities will exist to serve the proposed use, as was previously found by the Planning Board as evidenced in their original decision on this case (PGCPB Resolution No. 12-82, page 11, paragraph 1).

REMAND POINT 2

On remand, take further testimony and require the development that is the subject of the application to allow, as a minimum, turning movement for a standard WB-40 vehicle and a standard length fire truck. Further, when considering a turning movement, parking should be assumed to be provided on the outside edge of the cul-de-sac.

Comment: In a memorandum dated June 24, 2015, the Department of Permitting, Inspections and Enforcement (DPIE) stated that ...all proposed cul-de-sac and intersections are required to allow, as a minimum, turning movement for a standard WB-40 vehicle and a standard length fire truck. Further, they stated that when they consider a turning movement, they assume that parking is provided on the outside edge or radius of the cul-de-sac. The applicant has, in response to this Remand Point, revised the plan to enlarge the cul-de-sac of Bost Lane to better facilitate the turning movements of a WB-40 vehicle with vehicles parked at its periphery.

The Transportation Planning Section in a memorandum dated February 3, 2015, offered the following regarding Remand Point 2:

The second remand issue involves turning movements within the subject site. The site is at the end of Bost Lane. At the time of preliminary plan of subdivision, the applicant proposed a 35-foot radius (70-foot diameter) cul-de-sac at the end of Bost Lane, with a driveway entering the site to serve the townhouses. The size of the originally designed cul-de-sac is a reduction from the standard. The cul-de-sac design was evaluated and fully reviewed by transportation staff and deemed to be adequate and acceptable. The cul-de-sac was subsequently dedicated to public use. The provision of the enlarged a cul-de-sac at the end of Bost Lane, along with the driveway into the proposed townhouse development, is an improvement to the current situation. At this time, the pavement for Bost Lane merely ends with no turnaround, and adding a cul-de-sac would allow garbage trucks, emergency vehicles, and other vehicles improved space for maneuvering.

REMAND POINT 3

On remand, take further testimony and consider whether Bost Lane, as a County maintained roadway, is subject to DPW&T Urban Primary Residential Road Standards and Urban Residential Roadway Specifications and Standards, right-of-way dedication, and frontage improvements. Further, consider whether the roadway layout configurations and right-of-way dedications are in compliance with DPW&T's required specifications and standards for Bost Lane. PGCPB Resolution No. 12-82 at 23, DPW&T Memorandum dated June 8, 2012, Technical Staff Report at 21.

Comment: In a memorandum dated June 24, 2015, the Department of Permitting Inspections and Enforcement (DPIE), the agency that has succeeded DPW&T, stated in response to the above Remand Point 3 that Bost Lane is a County-maintained roadway and as such will be subject to DPW&T Urban Primary Residential Road Standards, right-of-way dedication and frontage improvements. Additionally, DPIE stated that roadway layout configuration and construction would have to be done in conformance with DPW&T's urban residential roadway Specifications and Standards and DPW&T's Table 1-2 Design Criteria.

REMAND POINT 4

On remand, pursuant to §27-284, the subject application shall be referred, again, to the Prince George's County Police Department, for review and comment on issues relevant to their mission, including opportunities to implement crime-prevention measures, and to enhance the safety and security of residents, employees and other users of a project through implementation of the principles of Crime Prevention Through Environmental Design (CPTED). PGCPB Resolution No. 12-82 at 23, Technical Staff Report at 22.

Comment: In a memorandum dated January 7, 2015, the Prince George's County Police Department noted the absence of light fixtures along the private road and/or the parking spaces off the private road. In response to these comments, a proposed condition in the Recommendation section of this staff report requires the submission of a photometric plan demonstrating the provision of adequate light for the community.

The applicant addressed the broader concept of CPTED in its response to the Order of Remand as follows:

In addition, the applicant would offer the following comments with regard to the design of the subdivision and how it implements the principles of CPTED. The layout and design of the Clintondale townhouse community can be reviewed in extremely favorable terms with respect to the four generally accepted principals CPTED:

1. Natural surveillance
2. Natural access control
3. Territorial reinforcement
4. Maintenance

The summarized implementation of the principles of the four accepted principals of CPTED are as follows:

1. Natural surveillance: The play area has been located at the entry to the property not in a remote location difficult to observe. This location fosters natural surveillance by residents, visitors and guests to the community. This is the principal of "see and be seen" as a person is less apt to commit a crime if they think someone will see them do it.
2. Natural access control: There is only one vehicular entrance and exit to the property which is the optimum solution for natural access control of residents, visitors and guests as they enter and exit the community. This helps direct the flow of traffic and decrease the opportunity for crime.
3. Territorial reinforcement: The Clintondale townhome community is naturally an easily identifiable community with natural and undeveloped borders and boundaries on three sides. This fosters an identifiable community identity which helps to create a sphere of influence that enables users to develop a sense of proprietorship over it. Potential trespassers perceive this control and are thereby discouraged.
4. Maintenance: The HOA guidelines for the community require homeowners to upkeep their property and promptly repair any damage to their homes. Likewise no 'improvements' can be made to the exterior property that conflict with the HOA requirements or without the explicit approval of the HOA Board of Directors. Common areas are also maintained by the HOA. Neglected and poorly maintained properties are more apt to see criminal activity. The design and management structure inherent in this community will ensure that the property is adequately maintained.

The facts noted above, plus the provision of adequate lighting as recommended by the Police Department, ensure that the proposed development satisfies the four principles of CPTED and adequately addresses the requirement of the Order of Remand.

14. Further Planning Board Findings and Comments from Other entities on the Remand: The subject remand was referred to the concerned agencies and divisions. The referral comments have either been incorporated in the Remand Findings above or are summarized as follows:

- a. Community Planning—The Planning Board stated that the approval is consistent with the applicable plan s including the *Plan Prince George's 2035 Approved General*

Plan, the 2013 Approved Subregion 5 Master Plan and Sectional Map Amendment, and the 2013 Approved Central Branch Avenue Corridor Revitalization Sector Plan.

- b. The Planning Board stated that, with respect to Transportation Planning, no changes to the conditions associated with the plan approvals need be made in response to the Order of Remand and that the Planning Board's previous transportation-related findings regarding this approval are still applicable and are hereby carried forward.
- c. The Prince George's County Fire Department—In a memorandum dated April 27, 2015, the Prince George's County Fire Department offered general comments regarding needed accessibility, private road design, and the location and performance of fire hydrants. In addition, the Prince George's County Fire Department indicated approval of an "acceptable alternative to a 120-foot-long hammerhead turnaround" that they had approved for the project a hammerhead turnaround pursuant to Section D103 of the International Building Code. Then, the Fire Department stated that the turnaround be dedicated to the Fire Department's use with signage and a painted curb included to prohibit parking along its periphery.
- A condition of this approval requires that the applicant provide signage and a painted curb to prohibit parking along the periphery of the hammerhead turnaround at the terminus of the private road.
- d. The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)—In a memorandum dated June 24, 2015, DPIE stated in response to the Order of Remand, that Bost Lane is a County-maintained roadway and as such will be subject to DPW&T Urban Primary Residential Road Standards, right-of-way dedication and frontage improvements. Additionally, DPIE stated that roadway layout configuration and construction should be designed in conformance with DPW&T's urban residential roadway Specifications and Standards and DPW&T's Table 1-2 Design Criteria. As a final point relevant to the initial review of this case, DPIE stated that the revised detailed site plan, including adding a tot-lot to the subdivision, meets the intent of Stormwater Management Concept Plan No. 42265-2003, dated March 23, 2010. The recommended condition of approval in this regard has been deleted accordingly.

15. Based on the foregoing and as required by Section 27-285(b) of the Zoning Ordinance, 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 cost and without detracting substantially from the utility of the proposed development for its intended use.

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16. Per Section 27-285(b)(4) of the Zoning Ordinance, which became effective on September 1, 2010, a required finding for approval of a detailed site plan is as follows:

The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible.

The site is not subject to the environmental regulations of Subtitle 27 that became effective on September 1, 2010 because the site has a previously approved preliminary plan and detailed site plan and the lots have been platted.

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 readopted its prior findings of approval, as modified by the findings contained herein and **REAPPROVED** the Type II Tree Conservation Plan (TCPII-120-04/02) and further **REAPPROVED** Detailed Site Plan DSP-04045/01 for the above-described land, subject to the following conditions:

1. Prior to certification of the detailed site plan:
 - a. The Section 4.7 schedule shall be corrected to reflect that a Type "C" buffer is required and shall be provided for the subject site along its common boundary with From the Heart Church Ministries, Inc. Additionally, the applicant shall provide staff with written certification from a registered Maryland landscape architect that the existing woodland contains enough plant units to qualify as the required Type "C" buffer, and that it shall be indicated on the site plan.
 - ~~b. The detailed site plan shall be revised to be consistent with approved Stormwater Management Concept Plan 42265-2003, or a revision thereto, as indicated by revised referral comments from the Department of Public Works and Transportation (DPW&T). The applicant shall submit to staff as designee of the Planning Board written confirmation from DPW&T that the subject DSP is consistent with SWM Concept Plan No. 42265-2002, or a revision thereto.~~
 - b.e. A note shall be added to the plans that the above-grade foundation walls shall either be clad with finish materials compatible with the primary façade design, or shall be textured or formed to simulate a clad-finished material such as brick, decorative block, or stucco. Exposed foundation of unclad or unfinished concrete shall be prohibited.
 - c.d. The front façades of the units on Lots 3 and 4 shall be brick or stone veneer, or stucco and the highly visible side elevations of those two units shall be brick, or stone veneer or

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stucco on the first story, excluding gables, bay windows, trim and doors. The brick, or stone veneer or stucco front façades on Lots 3 and 4 shall be counted toward the 60 percent requirement in Condition 1.f.

- d.e. One Crepe Myrtle shall be indicated to be planted in the front yard of Lot 3.
- e.f. A note shall be added to the plans indicating that a minimum of 11 of the front façades of the townhouse units will be brick, stone, or stucco.
- f.g. The detailed site plan shall be revised to:
- (1) Add a note listing the preliminary plan number (4-04042) and the approval date, May 31, 2004.
 - (2) Add a note listing the plat reference (PM 220-94).
 - (3) Relocate the entrance sign outside of the public utility easement.
 - (4) Change "floodplane" and "flood plane" to "100-year floodplain."
 - (5) Label the private road as Parcel B and add the acreage.
 - (6) Add the vacation petition number (V-08001) to the area of "additional land acquired as a result of Vacation of Absher Lane."
 - (7) Add the acreage for Parcel A.
 - (8) Add a tabulation listing the square footage of green space provided on each lot.
 - (9) The handicapped parking space shall be dimensioned at 16 by 19 feet, and depressed curbing and or ramping shall be indicated to demonstrate an accessible route for the physically handicapped from the designated parking space to Lots 6 and 7, which are those indicated to be potentially made accessible through the use of barrier-free design.
 - (10) The single garage to be provided for each unit shall be labeled as such on the site plan.
 - (11) The project sign shall be redesigned to be set back ten feet from the front property line and to indicate its height per Section 27-614(b)(1) of the Zoning Ordinance.

- (12) Add one bench to the proposed two in the planned recreational area to be provided for the project.
- (13) Provide a 144-square-foot community garden.
- (14) Provide a photometric plan demonstrating the provision of adequate lighting per the standards for the Illuminating Engineering Society of North America for residential areas.**

g.h. The landscape plan shall be prepared and sealed by a landscape architect registered in the state of Maryland. Such landscape plan shall show the location of existing shade trees within 75 feet of a dwelling unit of a minimum 2.5-inch diameter at breast height (DBH) noted in Schedule 4.1 to partially meet the requirements of Section 4.1 of the *Prince George's County Landscape Manual*.

h.i. The recreational area shall be relocated outside of the delineated conservation easement, and a new location for the required recreational features shall be indicated on both the detailed site plan and Type II tree conservation plan.

i.j. The detailed site plan shall be revised as follows:

- (1) Add a legend with appropriate graphic symbols and terminology consistent with the wording and graphics used on the Type II tree conservation plan.
- (2) Correct the spelling of "floodplane" and "flood plane" to "floodplain."
- (3) Delete the word "ephemeral" from the regulated streams located on-site.

i. **The applicant shall revise the plans to sufficiently illuminate the street frontage in response to a Crime Prevention Through Environmental Design (CPTED) concern expressed by the Prince George's County Police Department.**

k. **The hammerhead turnaround at the end of the private road shall have signage placed along it in regular intervals and the curb of said turnaround shall be painted yellow to prohibit parking.**

2. Prior to certification of the detailed site plan, the Type II tree conservation plan (TCPII) shall be revised to:

- a. Add the symbol for the limit of disturbance to the legend.
- b. Correct the spelling of floodplain.

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- c. Delete the word “ephemeral.”
- d. Have Type II Tree Conservation Plan Note 2 read:

“The Department of Environmental Resources (DER) shall be contacted prior to the start of any work on the site to address implementation of woodland conservation measures shown on this plan.”
- e. Have the revised plan signed and dated by the qualified professional who prepared the plan.
- f. The Type II tree conservation plan shall be revised to match the limits of the detailed site plan, incorporate additional information provided in the updated and expanded forest stand delineation, and address the technical and plan requirements of the Woodland Technical Manual effective as of September 10, 2010 to address, but not be limited to the following:
 - (1) Revise the configuration of the development parcel to match the detailed site plan.
 - (2) Revise the site layout to match the lotting pattern and site features shown on the detailed site plan.
 - (3) Include the two-foot interval contour lines so they are legible.
 - (4) Show proposed grading clearly on the plan.
 - (5) Show all easements clearly, including the public utility easement (PUE). No woodland shall be shown in the PUE. Woodlands over the easement(s) which are outside the limit of disturbance shall be indicated as “woodland retained—assumed cleared.”
 - (6) The conservation easement shall be delineated on the plan.
 - (7) “Tree preservation areas” shall be re-labeled as “woodland preservation” and labeled by acreage; woodland preservation areas shall be clearly indicated with a graphic pattern; the plan and the legend shall reflect standard terminology and graphic symbols found in the Environmental Technical Manual.
 - (8) The term “new tree line” shall not be used on the plan; a limit of disturbance shall be shown to depict the limits of clearing and grading.

- (9) The term "old tree line" shall be re-labeled as "existing tree line" on the plan and in the legend.
 - (10) The site development notes shall be consistent with the detailed site plan.
 - (11) Woodland preservation signage shall be located along the edge of the woodland preservation area on the north side of the sewer easement, and a revised detail and notes sufficient for field implementation shall be included on the plan.
 - (12) A correct delineation of the 100-year floodplain as determined by the Department of Environmental Resources (DER) shall be shown.
 - (13) Revise the woodland conservation worksheet to reflect the woodland conservation requirement for the site and how the requirement has been satisfied.
 - (14) Provide all applicable standard Type II tree conservation plan notes necessary to implement the plan.
 - (15) Add a Type II tree conservation plan approval block to the plan and include previous valid approvals.
3. Prior to issuance of the first building permit for the project, the applicant and the applicant's heirs, successors, and/or assignees shall:
- a. Have a minor final plat approved pursuant to Section 24-108 of the Subdivision Regulations, for which no preliminary plan of subdivision is required, to consolidate the area of land that was previously a dedicated right-of-way (Absher Lane), which was vacated by the Planning Board pursuant to Vacation Petition V-08001 together with the remainder of the land area covered by the detailed site plan and known as "Parcel A." Such plat shall also show a ten-foot-wide public utility easement along both sides of the street in front of the units unless an agreement with the utility companies can be established prior to certification of the subject detailed site plan. The plat shall indicate bearings, distances, and acreage as reflected on the DSP.
 - b. Have recorded in land records the recreational facilities agreement between the applicant and The Maryland-National Capital Park and Planning Commission (M-NCPPC) for the recreational facilities as described in the recreational facilities agreement for the project, and bond the facilities.
4. Prior to issuance of each building permit for the subject project, the applicant shall ensure that the house and driveway, a minimum 9.5 feet wide, are dimensioned and that a sediment and erosion control plan is submitted as part of the permit package.

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5. Revise the forest stand delineation (FSD) plan and FSD summary narrative Type II tree conservation plan to reflect and address the current configuration of the development application as outlined in the Woodland Technical Manual, and include but not be limited to the following:
 - a. Delineate additional woodlands on the site.
 - b. Delineate and label the expanded stream buffer.
 - c. Add a site statistics table consistent with the current development application.
 - d. Revise the quantity of woodlands found on the site by stand.
 - e. Add all applicable standard FSD notes.
 - f. Show the critical root zone associated with the specimen tree shown on the plan.
 - g. Add additional graphic elements shown on the plan to the legend.
 - h. Have the revised plan signed by the qualified professional who prepared it.
6. Prior to certificate approval of the Type II tree conservation plan (TCPII), a woodland conservation easement prepared in accordance with requirements found in the Environmental Technical Manual shall be recorded in the county Land Records, the following note shall be included on the TCPII, and the liber and folio of the recorded document shall be added to the note:

“Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George’s County Land Records at Liber _____ Folio _____. Revisions to this TCPII may require a revision to the recorded easement.”
7. Prior to issuance of the ninth building permit for the project, the applicant shall complete construction of the recreational facilities as described in the recreational facilities agreement for the project.

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 Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Shoaff, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 26, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of September 2012.

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 Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Shoaff, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 9, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 30th day of July 2015.

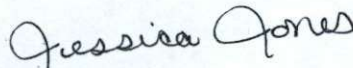
APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department

Date 7/16/15

Patricia Colihan Barney
Executive Director



By Jessica Jones
Planning Board Administrator

PCB:JJ:RG:ydw

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