



The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

Note: Staff reports can be accessed at <http://mncppc.igm2.com/Citizens/Default.aspx>

Preliminary Plan of Subdivision Reconsideration Hearing Forest Hills

4-03071

REQUEST	STAFF RECOMMENDATION
Reconsideration Hearing	APPROVAL with conditions

Location: On the west and east sides of MD 202 (Largo Road), approximately 200 feet south of Kent Drive.

Gross Acreage: 167.70

Zone: LCD

Prior Zone: R-L

Gross Floor Area: N/A

Dwelling Units: 116

Lots: 116

Parcels: 9

Planning Area: 79

Council District: 06

Municipality: N/A

Applicant/Address:

Quad Construction Corporation
6110 Executive Boulevard, Suite 310
Rockville, MD 20852

Staff Reviewer: Eddie Diaz-Campbell

Phone Number: 301-952-3665

Email: Eddie.Diaz-Campbell@ppd.mncppc.org



Planning Board Hearing Date: 01/12/2023

Planning Board Action Limit: N/A

Memorandum Date: 12/22/2022

Date Received: 07/01/2020

Previous Parties of Record (Applicant): N/A

Previous Parties of Record (M-NCPPC): 07/14/2020
12/22/2022

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at

http://www.mncppcapps.org/planning/Person_of_Record/.

Please call 301-952-3530 for additional information.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

December 22, 2022

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Eddie Diaz-Campbell, Planner II, Subdivision Section *EDC*
Development Review Division

VIA: Sherri Conner, Supervisor, Subdivision Section *SC*
Development Review Division

SUBJECT: **Preliminary Plan of Subdivision 4-03071
Reconsideration Hearing
Forest Hills**

By letter dated July 1, 2020, Gregory S. Balian, representing Quad Construction Corporation, requested a waiver of the Prince George's County Planning Board Rules of Procedure (Section 10(a)) and a reconsideration of Preliminary Plan of Subdivision (PPS) 4-03071, which was approved by the Planning Board on January 15, 2004. The resolution (PGCPB Resolution No. 04-06) was adopted on February 12, 2004. On July 30, 2020, the Planning Board granted a waiver of the Rules of Procedure to admit a reconsideration request submitted more than 14 days after the adoption of the resolution. The Planning Board also granted the applicant's request for a reconsideration, in accordance with Section 10(e) of the Rules of Procedure. Section 10(e) states that reconsideration may only be granted if, in furtherance of substantial public interest, the Board finds that an error in reaching the original decision was caused by fraud, surprise, mistake, inadvertence, or other good cause. The Planning Board granted the request for reconsideration based on other good cause, in furtherance of substantial public interest.

Following the granting of the request for reconsideration, staff found that the applicant would need to amend the Basic Plan, A-9895, and Comprehensive Design Plan, CDP-9901, for the subject site prior to a hearing on the merits of the proposed reconsideration. This resulted in the 2.5-year gap between the granting of the request and the reconsideration hearing now scheduled to be held on January 12, 2023. Discussion of the amended applications, A-9895-C-01 and CDP-9901-01, which were approved during the intervening time period, is included in this memorandum.

The applicant's specific request is for reconsideration of Conditions 10 and 11, as well as Finding 7 (Parks and Recreation) of the PPS resolution. The applicant proposes with this reconsideration to remove their requirement to build the master-planned Western Branch Trail through the western portion of the site, and instead pay an approximately \$200,000 fee to the Prince George's County Department of Parks and Recreation (DPR), which will be used to improve the Collington Trail system east of the property. Conditions 10 and 11 are reproduced below:

- 10. Prior to submission of the Specific Design Plan, the applicant shall confer with the Department of Parks and Recreation concerning the exact alignments of the master plan trails along the Western Branch and of connecting trails from the development area of Forest Hill to the trail along the Western Branch. The Specific Design Plan shall upon submission reflect the alignment agreed to by DPR.**
- 11. The location of the trail shall be staked in the field and approved by DPR prior to construction.**

The applicant requested in their July 1, 2020 letter to have Conditions 10 and 11 revised as follows:

- 10. Improvements of the trails systems to the east of the property shall be funded in part by the payment of \$200,000 on a per building permit basis to DPR by the applicant, his heirs, successors and/or assignees.**
- 11. The location of the trail improvements shall be solely at DPR's discretion.**

Upon review of the PPS resolution, staff has found that Condition 15, as well as Finding 5 (Environmental) and Finding 8 (Trails) would also have to be amended as part of the reconsideration to accomplish the applicant's proposal. Condition 15 is reproduced below:

- 15. Prior to the issuance of the 58th building permit, the applicant, his heirs, successors, and/or assignees shall construct the master plan stream valley trail along the subject property's entire length of Western Branch within land dedicated to the Department of Parks and Recreation (DPR), in conformance with DPR standards and guidelines, per the concurrence of DPR.**

The applicant's request does not include proposed revisions to the additional condition and findings; however, staff finds it is appropriate to include because they are related to the same issue and would be in conflict if not amended.

PPS 4-03071, known as Forest Hills, is a residential subdivision which was approved by the Planning Board in 2004, for 116 lots and 9 parcels, to allow development of 116 single-family detached dwelling units. The site is located on both sides of MD 202 (Largo Road), approximately 200 feet south of Kent Drive, near the town of Upper Marlboro. Though the site has been platted, in accordance with the PPS, construction has not yet commenced. At the time of final plat, Condition 8 of the PPS resolution required the applicant to dedicate approximately 95 acres of land to the Maryland-National Capital Park and Planning Commission (M-NCPPC). The dedicated land is contained in Parcel B located on the west side of MD 202, and in Parcels G and H located on the east side of MD 202. These three parcels are recorded in Plat Book PM 227 pages 78, 81, and 82 of the

Prince George's County Land Records, respectively. The Western Branch Trail was to be located on Parcel B. The approved PPS shows the location of the trail that was contemplated at the time.

Prior to the Planning Board's approval of PPS 4-03071, the Prince George's County District Council approved A-9895, as part of its approval of the 1993 *Approved Subregion VI Study Area Master Plan and Sectional Map Amendment (Planning Areas 79, 82A, 82B, 86A, 87A, and 87B)* (Subregion VI Master Plan) and Prince George's County Council Resolution CR-54-1994. The District Council subsequently approved CDP-9901 on March 4, 2003. Both the basic plan and CDP contained conditions of approval requiring the construction of the Western Branch Trail through the property. PPS 4-03071 included the above listed Conditions 10, 11, and 15, in accordance with the prior plans' conditions; accordingly, the PPS could not be reconsidered until the prior plans had been amended to remove or modify the associated trail-related conditions. This was accomplished through the District Council's approval of A-9895-C-01 on April 26, 2021, and the Planning Board's approval of CDP-9901-01 on November 17, 2022. Following reconsideration of this PPS, a new specific design plan (SDP) will be required for the property, as the prior SDP has expired, and the SDP must show a site design that does not include the trail.

At the time of approval of A-9895-C-01, the District Council concurred with the applicant's proposal to pay a fee for trail construction in lieu of constructing the Western Branch Trail. The findings of A-9895-C-01 noted that since the original approvals for the property, no master plan trail systems have been built or are planned to be built on the Western Branch, and the area has been significantly built out with several communities. Instead, there has been development of the Collington Trail system to the east, which is a more feasible north-south trail for the area. DPR agreed that, in lieu of construction of the Western Branch Trail, the applicant may pay a fee that DPR will use to connect portions of existing trails that are located east of the property. Improving these trails will better serve the larger community. These events could not be anticipated at the time of the original PPS approval and are good cause for the reconsideration. In a referral memorandum provided for this reconsideration request (Thompson to Diaz-Campbell, dated December 9, 2022 and included in the backup of this staff memorandum), DPR reaffirmed their support of the applicant's proposal. Therefore, staff finds the applicant's request to revise the trail-related findings and conditions of PPS 4-03071 acceptable.

Staff further finds that even though the Western Branch Trail is a master-planned trail, the PPS will still conform to the master plan if it is removed. At the time of the PPS approval, the property was subject to the Subregion VI Master Plan. The current area master plan is the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*. Both versions of the master plan recommend construction of the trail. Section 24-121(a)(5) of the prior Prince George's County Subdivision Regulations (under which this PPS was approved) requires that the PPS conform to the area master plan, including maps and text, unless events have occurred to render the relevant recommendations within the plan no longer appropriate or applicable. The District Council's decision to not require construction of the trail, through the approval of A-9895-C-01, is an event which renders the master plan's recommendation to build the trail no longer appropriate.

Condition 12(b) of the PPS required the applicant to record a public recreation facilities agreement (RFA) for the trail in the Prince George's County Land Records prior to submission of a final plat. This was accomplished and the public RFA is recorded in Liber 28839 folio 701. With the reconsideration of this PPS, the public RFA should be found to be of no further force and effect. A new public RFA will not be required. It is noted that a private RFA for on-site recreation facilities is still required by Condition 12 and is in effect; this RFA is recorded in Liber 27810 folio 711.

Regarding the applicant's proposed revision to Condition 10, staff finds that the applicant's July 2020 request to pay the \$200,000 fee on a per building permit basis is no longer appropriate because it is post-dated by the timing for payment specified in the April 2021 approval of A-9895-C-01. Condition 15 of the basic plan amendment requires that the fee be paid in full prior to approval of a building permit exceeding 50 percent of the dwelling units approved with the SDP for the site. Staff recommends that Condition 10 of the PPS should instead be revised to read similarly to Condition 15 of the basic plan amendment.

Regarding the applicant's proposed revision to Condition 11, staff recommends that this revision be refined to further specify that while the location of the trail improvements is at DPR's discretion, the improvements shall be done within the Collington Trail system and shall be in conformance with DPR's Guidelines for Park and Recreation Facilities. This will ensure the revised Condition 11 is consistent with Condition 16 of the basic plan amendment. Regarding Condition 15 of the PPS, this condition may be deleted in its entirety, as it is not appropriate for the PPS to specify timing for construction of the Western Branch Trail because the trail is not to be constructed.

Regarding the findings, staff recommends that Finding 5 (Environmental) be revised to state that no trails or other development are to be constructed on the M-NCPPC parkland within the boundaries of this PPS. Currently, this finding includes discussion of the proposed trail locations (the Western Branch Trail and its feeder trails from the development) going through woodland conservation areas. Staff recommends Finding 7 (Parks and Recreation) be revised to provide a summary of the reconsideration action. Staff recommends Finding 8 (Trails) be revised to include a finding of master plan conformance which accounts for the removal of the requirement to build the Western Branch Trail. The recommended new language is shown in Amendments 2-4 of the Recommendation section of this memorandum.

If the Planning Board approves the reconsideration, staff will prepare an amended resolution to reflect the amended conditions, which will be placed on a future Planning Board agenda for adoption.

RECOMMENDATION

APPROVAL of a Reconsideration of Preliminary Plan of Subdivision 4-03071 (PGCPB Resolution No. 04-06), to **amend Conditions 10 and 11, delete Condition 15, and amend Findings 5, 7, and 8** as follows (deleted text indicated with [brackets] and ~~striketrough~~, new language/added text indicated with underline):

Amendment 1—Conditions 10, 11, and 15 (pages 3-5):

[10. ~~Prior to submission of the Specific Design Plan, the applicant shall confer with the Department of Parks and Recreation concerning the exact alignments of the master plan trails along the Western Branch and of connecting trails from the development area of Forest Hill to the trail along the Western Branch. The Specific Design Plan shall upon submission reflect the alignment agreed to by DPR.~~]

10. In lieu of construction of the Western Branch Trail, improvements of the trails system to the east of the property shall be funded in part by the total payment of \$200,000 by the applicant and the applicant's heirs, successors and/or assignees to the Prince George's

County Department of Parks and Recreation, which shall be indexed to the United States Bureau of Labor and Statistics Consumer Price Index (CPI) in 2021 dollars as of the payment date, and ultimately paid in full, prior to approval of a building permit exceeding 50 percent of the dwelling units approved with the specific design plan for the site. The public recreation facilities agreement recorded in Liber 28839 folio 701 of the Prince George's County Land Records shall be of no further force or effect.

- [11. ~~The location of the trail shall be staked in the field and approved by DPR prior to construction.~~]
11. The location of the trail improvements funded by Condition 10 above shall be solely at the discretion of the Prince George's County Department of Parks and Recreation (DPR) provided the trail improvements are done in the Collington Trail system and in conformance with DPR's Guidelines for Park and Recreational Facilities.
- [15. ~~Prior to the issuance of the 58th building permit, the applicant, his heirs, successors, and/or assignees shall construct the master plan stream valley trail along the subject property's entire length of Western Branch within land dedicated to the Department of Parks and Recreation (DPR), in conformance with DPR standards and guidelines, per the concurrence of DPR.~~]

Amendment 2—Finding 5 (pages 7–11):

5. **Environmental**—A review of the available information indicates that streams, wetlands, 100-year floodplain, severe slopes, areas of steep slopes with highly erodible soils, and the associated buffers for these features are found to occur on the property. Significant transportation-related noise impacts associated with existing and realigned Largo Road (MD 202) have been identified. The soils found to occur, according to the Prince George's County Soil Survey, include Bibb silt loam, Ochlockonee silt loam, Sandy land steep, and Westphalia fine sandy loams. Some of these soils may have significant limitations with respect to the development of this property. According to available information, Marlboro clay is found to occur on this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled "Ecologically Significant Areas in Anne Arundel and Prince George's Counties," December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Western Branch and Collington Branch watersheds of the Patuxent River Basin.

Environmental Conditions of Approval to be Addressed at Preliminary Plan of Subdivision

The approval of the basic plan and CDP by the District Council included numerous conditions, several of which dealt with environmental issues that were to be addressed during subsequent reviews. The environmental conditions to be addressed during the review of this preliminary plan of subdivision are addressed below. The respective conditions are in **bold** typeface, the associated comments are in standard typeface, and the required revisions and/or required information are in italics.

Basic Plan, A-9895, PGCPB Resolution No. 94-24

- 6. The applicant shall work with the Department of Parks and Recreation in creating a Type I Tree Conservation Plan to adequately allow for improvements (such as trails) in any forest preservation proposal.**

The TCPI, as revised, shows the preliminary trail locations that are not restricted by woodland conservation.

- 8. The applicant shall prepare a geotechnical study of the Marlboro Clays on site, in accordance with Department of Environmental Resources Criteria, and submit it with the Comprehensive Design Plan. Special attention should be paid to locating headwalls of previously failed slopes; the approximate locations should be shown on the plan delimiting the 1.5 safety factor line.**

The geotechnical report submitted on December 9, 2003 was reviewed. It accurately locates the 1.5 safety factor line for potential slope failure areas on the preliminary plan of subdivision.

- 9. A Stormwater Management Concept Plan shall be approved prior to the approval of the Comprehensive Design Plan.**

A stormwater management concept plan was approved by the Department of Environmental Resources. That approval remains valid through June 2004.

- 11. The applicant shall obtain approval of the 100-year floodplain elevations from the Department of Environmental Resources, prior to preliminary plan approval.**

The applicant has submitted a 100-year floodplain study approved by the Department of Environmental Resources.

- 12. Lots shall be adjusted to allow a structure to be placed outside of the noise zone [at least 395 feet from the centerline of proposed MD 202] or the applicant shall provide a noise impact study, including applicable mitigation measures, with the Comprehensive Design Plan.**

The noise study submitted for review on November 17, 2003, has been reviewed and was found to provide accurate information with respect to the location of the unmitigated 65 dBA Ldn noise contour on the west side of MD 202. However, this condition specifies that this information be based on the centerline of proposed MD 202. Based on the data provided, it appears that proposed Lots 1-9, Block "A," would be less impacted by this condition while Lots 1-5, Block "F," will be more impacted by the revised alignment. A Phase II noise study should be reviewed at the specific design plan stage.

Comprehensive Design Plan, CDP-9901, PGCPB Resolution No. 02-184

1. Prior to certification of the Comprehensive Design Plan:

- c. The Type I Tree Conservation Plan TCPI/64/95 shall be revised in consultation with the Department of Parks and Recreation to remove woodland conservation areas from portions of the proposed parkland where development may occur.**

The plans as submitted reflect the previously proposed trail locations through the woodland conservation areas. According to staff at the Prince George's County Department of Parks and Recreation (DPR), the proposed park development on this site ~~[will]~~ was to be limited to the construction of trails only. However, as of the January 2023 reconsideration of this preliminary plan of subdivision (PPS), no trails or other development are to be constructed on the Maryland-National Capital Park and Planning Commission (M-NCPPC) parkland within the site boundaries. Type 1 Tree Conservation Plan TCPI-064-95-03, which shows the removal of the Western Branch Trail, was approved with CDP-9901-01. Therefore, this condition has been addressed.

[No further revisions to Finding 5]

Amendment 3—Finding 7 (pages 11–15):

- 7. Parks and Recreation**—The applicant proposes to dedicate 105.12 acres of open space to The Maryland-National Capital Park and Planning Commission (M-NCPPC) for public park use. This open space features a floodplain, dense woodlands, steep slopes, wetlands and Marlboro clay soils. The stream valleys of Western Branch and Collington Branch cross the western and eastern boundaries of the dedicated parkland.

Parks and Recreation Conditions of Approval to be Addressed at Preliminary Plan of Subdivision

The following is a summary of the Basic Plan A-9895 and CDP-9901 conditions and the Subdivision Ordinance regulations that apply to parkland dedication and development:

Basic Plan, A-9895, PGCPB Resolution No. 94-24

- **The applicant shall dedicate 105 acres to the M-NCPPC.**
- **The applicant shall construct a hiker/biker trail along Western Branch with connections provided to the Forest Hill Community where possible. Feasibility and location of trail connections will be determined during consideration of the Comprehensive Design Plan.**
- **The hiker/biker trail shall be constructed in conformance with the M-NCPPC Parks and Recreation Facilities Guidelines.**

- The applicant shall work with the Department of Parks and Recreation in creating a Type I Tree Conservation Plan to adequately allow for improvements (such as trails) in any forest preservation proposal.
- The standard condition for the conveyance of the land to the M-NCPPC as approved by the County Council resolution states:

"No stormwater management facilities, or tree conservation or utility easements shall be proposed on lands owned by or to be conveyed to The M-NCPPC without the prior written consent of the Department of Parks and Recreation."

Comprehensive Design Plan, CDP-9901, PGCPB Resolution No. 02-184

- 1.a. (11): Prior to certification of the Comprehensive Design Plan, drawings and text shall be revised to incorporate the following: eight-foot-wide asphalt hiker/biker trail along the Western Branch and a 6-foot-wide asphalt connector trails providing access to the Western Branch from the proposed community as shown on attached DPR Exhibit "A". One connection shall be oriented towards the southern end of the trail and the other connection shall be oriented towards the northern end of the trail.
- 1.a. (12): Prior to certification of the Comprehensive Design Plan, drawings and text shall be revised to incorporate the following: a ten-foot-wide equestrian trail along the Western Branch if determined to be feasible by the DPR at the time of Specific Design Plan.
- 1.c: The Type I Tree Conservation Plan TCPI/64/95 shall be revised in consultation with the DPR to remove woodland conservation areas from portions of the proposed parkland where development may occur.
- 3.a: Dedicate approximately 105 acres of land to M-NCPPC as shown on the Department of Parks and Recreation (DPR) Exhibit "A".
- 3.b: Land to be dedicated shall be subject to the following conditions:
 - (1) An original, special warranty deed for the property to be conveyed, (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the Final Plat.
 - (2) The M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to Final Plat.

- (3) The boundaries and acreage of land to be conveyed to the M-NCPPC shall be indicated on all development plans and permits, which include such property.
 - (4) The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by The M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, The M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.
 - (5) Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by The M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by The M-NCPPC, the DPR shall review and approve the location and design of these facilities. The DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - (6) All waste matter of any kind shall be removed from the property to be conveyed. The DPR shall inspect the site and verify that it is in acceptable condition for conveyance, prior to Final Plat approval.
 - (7) No stormwater management facilities, or tree conservation or utility easements shall be proposed on lands owned by or to be conveyed to The M-NCPPC without the prior written consent of the DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by the DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
- 3.c: Submit a letter to the Subdivision Section indicating that the Department of Parks and Recreation has conducted a site inspection and found the land to be dedicated to the M-NCPPC in acceptable condition for conveyance.
- 3.d: Submission of three original, executed Recreational Facilities Agreements (RFA) for trail construction to the DRD for their approval, three weeks prior to a submission of a final plat of subdivision. Upon approval by the DRD, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland. The RFA shall be state that the trail construction shall be completed prior to issuance of the 58th building permit.
- 5: Prior to approval of the first Specific Design Plan for the development on the west side of the MD 202, the applicant shall:
- a. Submit detailed construction drawings for trail construction to DPR for review and approval. The recreational facilities on park property shall be designed in accordance with the applicable standards in the Parks

and Recreation Facilities Guidelines. The trail construction drawings shall ensure the following:

- (1) Dry passage for all trails. If wet areas must be traversed, suitable structures shall be constructed. Designs for any needed structures shall be reviewed by DPR.**
 - (2) Handicapped accessibility of all trails shall be in accordance with applicable AOA guidelines.**
- b. If determined to be necessary by the DPR, submit construction drawings for a ten-foot-wide equestrian trail along the Western Branch. The trail shall be turf surfaced, the trees and branches shall be cleared a total of 12-foot in heights along the trail. The location of the trail shall be determined by DPR.**
- c. Submit drawings showing the exact location of the two trail connectors.**
- 6.a: Prior to issuance of any building permits, the applicant shall submit performance bonds, letter of credit or other suitable financial guarantee to DPR to secure the grading and construction of the recreational facilities on park property, in an amount to be determined by the DRD.**
- 7: No building permit shall be issued for the lots directly adjacent to the trail until the trail is under construction.**

Subdivision Regulation Requirements

Section 24-134 (mandatory dedication of parkland) requires that 8.4 acres of the subject property be dedicated for public parkland. This acreage shall be "suitable and adequate land for active or passive recreation."

Discussion

The applicant proposes to dedicate 95 acres of land to M-NCPPC [~~and proposes master-planned trail construction, which is requirement of the Basic Plan A-9895.~~] The dedicated parkland consists of floodplain, dense woodland, steep slopes, wetlands and Marlboro clay soils. The applicant has requested use of certain portions of the proposed parkland for tree conservation purposes. The Department of Parks and Recreation (DPR) has agreed to allow the applicant to encumber portions of the parkland for tree conservation. However, the TCPI shows an excessive amount of conservation to be placed on the parkland. The applicant shall revise the TCPI and submit it to DPR for review and approval prior to certificate of approval of the TCPI-64-95-01. Tree conservation should be limited to the area needed to serve this planned community.

In accordance with Section 24-135(b) of the Subdivision Regulations, the Park Planning and Development Division of DPR recommends provisions of the private recreational facilities on the homeowners association (HOA) land in lieu of mandatory dedication of parkland (8.4 acres). The recreational facilities shall be provided on the east and west sides of the subdivision and may include picnic areas, sitting areas and playgrounds.

Summary of January 2023 Reconsideration

Between approval of the PPS in 2004 and the reconsideration in 2023, the District Council approved an amendment to the Basic Plan (A-9985-C-01, on April 26, 2021), and the Planning Board approved an amendment to the Comprehensive Design Plan (CDP-9901-01, on November 17, 2022) for the purpose of removing the applicant's requirement to construct the Western Branch Trail through the site. At the time of the approval of A-9895-C-01, the District Council concurred with the applicant's proposal to instead pay a fee for trail construction in lieu of constructing the trail. The District Council amended Conditions 15 and 16 of the basic plan in order to accommodate the applicant's proposal. The amended Conditions 15 and 16 are reproduced below:

- 15. In lieu of construction of the Western Branch Trail, improvements of the trails system to the east of the property shall be funded in part by the total payment of \$200,000 by the applicant, its heirs, successors and/or assignees to the Prince George's County Department of Parks and Recreation, which shall be indexed to the Bureau of Labor and Statistics Consumer Price Index (CPI) in 2021 dollars as of the payment date, and ultimately paid in full, prior to approval of a building permit exceeding 50 percent of the dwelling units approved with the Specific Design Plan for the site.**
- 16. The location of the trail improvements funded by Condition 15 shall be solely at the discretion of the Prince George's County Department of Parks and Recreation provided the trail improvements are done in the Collington Trail system and in conformance with the Department of Parks and Recreation's Guidelines for Park and Recreational Facilities.**

The findings of A-9895-C-01 noted that since the original approvals for the property, no master plan trail systems have been built or are planned to be built on the Western Branch, and the area has been significantly built out with several communities. Instead, there has been development of the Collington Trail system to the east, which is a more feasible north-south trail for the area. DPR agreed that, in lieu of construction of the Western Branch Trail, the applicant shall pay a fee that DPR will use to connect portions of existing trails that are located east of the property.

At the time of approval of CDP-9901-01, the Planning Board approved one condition with the comprehensive design plan amendment, which stated that all the previous conditions of CDP-9901 remain in full force and effect with the exception of Conditions 1(a)(11), 1(a)(12), 3(d), 5, and 7. These conditions were deleted in their entirety. The prior conditions are listed in the "Parks and Recreation Conditions of Approval to be Addressed at Preliminary Plan of Subdivision" section of this finding above, among the other park and recreation-related findings which are still in effect. The deletion of the above conditions supports the 2023 reconsideration of this PPS.

These events could not be anticipated at the time of the original PPS approval and were good cause for the reconsideration. At the time of the reconsideration request, DPR reaffirmed their support of the applicant's proposal. The Planning Board approved modification of Conditions 10 and 11 of the PPS to be consistent with Conditions 15 and 16

of the basic plan amendment. The Planning Board also approved the deletion of Condition 15 of the PPS in its entirety.

It is further noted that Condition 12(b) of the PPS required the applicant to record a public recreation facilities agreement (RFA) for the trail in the Prince George's County Land Records prior to submission of a final plat. This was accomplished and the public RFA was recorded in Liber 28839 folio 701. With the reconsideration of this PPS, the public RFA is found to be of no further force and effect. A new public RFA will not be required. A private RFA for on-site recreation facilities is still required by Condition 12 and is in effect; this RFA is recorded in Liber 27810 folio 711.

Amendment 4—Finding 8 (page 15):

8. **Trails**—The adopted and approved Subregion VI Master Plan includes two proposed trail/bicycle facilities impacting the subject site. MD 202 is designated as a Class III bikeway. Bikes are accommodated on the wide asphalt shoulders currently in place along this segment of MD 202. Staff recommends the retention of these wide shoulders and the placement of “Share the Road with a Bike” signage along MD 202. The master plan also recommends a stream valley trail within M-NCPPC parkland along the Western Branch. ~~[The construction of this stream valley trail is recommended along the subject property's entire length of the Western Branch. Discussions are underway between the applicant and the Department of Parks and Recreation regarding the location of this trail.]~~ However, with the approval of Basic Plan Amendment A-9895-C-01, the District Council removed the requirement for the applicant to build this trail, instead requiring the payment of approximately \$200,000 to DPR, to help improve the Collington Trail system east of the property. Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, construction of the Western Branch stream valley trail on this property is not required for conformance to the master plan because events have occurred to render the relevant recommendations within the master plan no longer applicable.