



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-07076

Circuit Court Remand

Application	General Data	
Project Name: Estates of Pleasant Valley Conservation Subdivision Location: North of Accokeek Road, south of Floral Park Road, west of Branch Avenue (MD 5), and east of Church Drive. Applicant/Address: Saddle Creek, LLC 14416 Old Mill Road, Suite 201 Upper Marlboro, MD 20772 Property Owner: Saddle Creek, LLC	Planning Board Hearing Date:	03/22/12
	Memorandum Date:	03/08/12
	Date Accepted:	12/21/11
	Planning Board Action Limit:	N/A
	Plan Acreage:	278.09
	Zone:	R-R & R-E
	Gross Floor Area:	N/A
	Lots:	258
	Parcels:	13
	Planning Area:	85A
	Tier:	Developing
	Council District:	09
	Election District:	11
	Municipality:	N/A
	200-Scale Base Map:	217/8SE06

Purpose of Application	Notice Dates	
The preliminary plan of subdivision was approved by the Planning Board on April 17, 2008. On April 1, 2011, the Circuit Court remanded this case to the Planning Board to address CB-33-2008.	Previous Parties of Record Notice of Hearing Mailed:	3/2/2012
	Sign(s) Posted on Site:	N/A

Staff Recommendation		Staff Reviewer: Whitney Chellis Phone Number: 301-952-4325 E-mail: Whitney.Chellis@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
			X

March 8, 2012

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Whitney Chellis, Subdivision Review Section Supervisor

SUBJECT: Preliminary Plan of Subdivision 4-07076 Circuit Court Remand
Estates at Pleasant Valley Conservation Subdivision

Preliminary Plan of Subdivision 4-07076 was approved by the Planning Board on April 17, 2008 and the resolution of approval, PGCPB No. 08-64, was adopted on May 29, 2008. The preliminary plan was approved as a conservation subdivision pursuant to Section 24-152 of the Subdivision Regulations (Subtitle 24).

On July 1, 2008, the petitioners (Accokeek, Mattawoman, Piscataway Creeks Council and Kelly Canavan) filed a Petition for Judicial Review in the Circuit Court for Prince George's County regarding an administrative decision made by the Prince George's County Planning Board (Circuit Court Case No. CAL08-16311). The Circuit Court dismissed the petition for judicial review of the appellants on the grounds that they lacked standing to pursue the judicial review. That decision was appealed to the Court of Special Appeals and, in Unreported Case No. 2823, the Court reversed the decision and remanded the case to the Circuit Court for further proceedings.

On December 17, 2010, the Circuit Court heard oral argument on the appeal. On April 1, 2011, the Court entered a Memorandum Opinion remanding the case to the Planning Board. The Circuit Court Remand decision (CAL08-16311) concluded that:

For reasons set forth herein, the Court remands this case to the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission to decide whether the conservation subdivision plan meets all the requirements passed under CB-33-2008. Based on the Court's decision, it is unnecessary to address the substantive issues raised in Petitioners' brief.

By letter dated December 21, 2011, Tom Haller, the attorney for the applicant, requested that this matter be considered by the Planning Board to address the Court's remand.

As indicated above, the preliminary plan of subdivision in this case was approved by the Planning Board on April 27, 2008 and the resolution of approval was adopted on May 28, 2008. On September 9, 2008, the Prince George's County Council adopted Council Bill CB-33-2008. This legislation established requirements, procedures, and standards for public benefit conservation subdivisions. County Council Bill CB-33-2008 also renumbered and amended Section 24-152(j) of the Subdivision Regulations, which contains the criteria for approval of a conservation subdivision. Prior to the adoption of CB-33-2008, the applicable section of the Subdivision Regulations governing conservation subdivisions was Section 24-152, and the specific subsection setting forth the criteria for approval was Section 24-152(j). As a result of adding provisions related to public benefit conservation subdivisions, a new subsection (24-152(c)) was added, resulting in redesignation of the subsequent subsections. Thus, Section 24-152(j) became Section 24-152(k). In addition, Section 24-152(k)(3) was added, which states the following:

Because the use of the Conservation Subdivision technique in the Developed or Developing Tier is optional, the Planning Board shall also find that the proposed plan is clearly superior to that which could be achieved through the use of conventional development standards and clearly meets the purposes of the Conservation Subdivision technique. Lot yield shall be a secondary consideration to achieving the purposes of the Public Benefit Conservation Subdivision in assessing whether a proposed plan is clearly superior.

In addition, CB-33-2008 added Section 24-152(l)(2). This provision requires that, when filing a conservation subdivision, "a reasonable and achievable lotting pattern reflecting the minimum conventional standards of the existing zoning of the property" be submitted.

Staff has found that adequate and sufficient evidence was presented to the Planning Board and contained in the original resolution of approval of the preliminary plan of subdivision (PGCPB Resolution No. 08-64, File 4-07076) to demonstrate that the subdivision approved is "clearly superior" to a conventional subdivision layout (CB-33-2008). As part of the submission requirements for Preliminary Plan of Subdivision 4-07076, staff required that the applicant submit a conventional lot layout, even though such was not required under the ordinance in effect at that time. This conventional lot layout was presented to the Planning Board at the time the case was originally presented. Also, while the original staff report contained findings to indicate that the conservation subdivision proposed by the applicant resulted in a better layout than a conventional subdivision, the findings did not use the phrase "clearly superior" as the criterion did not exist at the time. Staff has restated the findings with clarifications and in terminology that is consistent with the specific provisions of CB-33-2008. As such, staff advises the Planning Board that it is not necessary to convene a new evidentiary hearing on this matter.

The resolution of approval (PGCPB Resolution No. 08-64) adopted by the Planning Board on May 29, 2008 has been amended to address the specific provision of CB-33-2008. An amended preliminary plan of subdivision resolution of approval (PGCPB Resolution No. 08-64(A)) has been prepared that is consistent with this recommendation and, if approved by the Planning Board, should be adopted.