



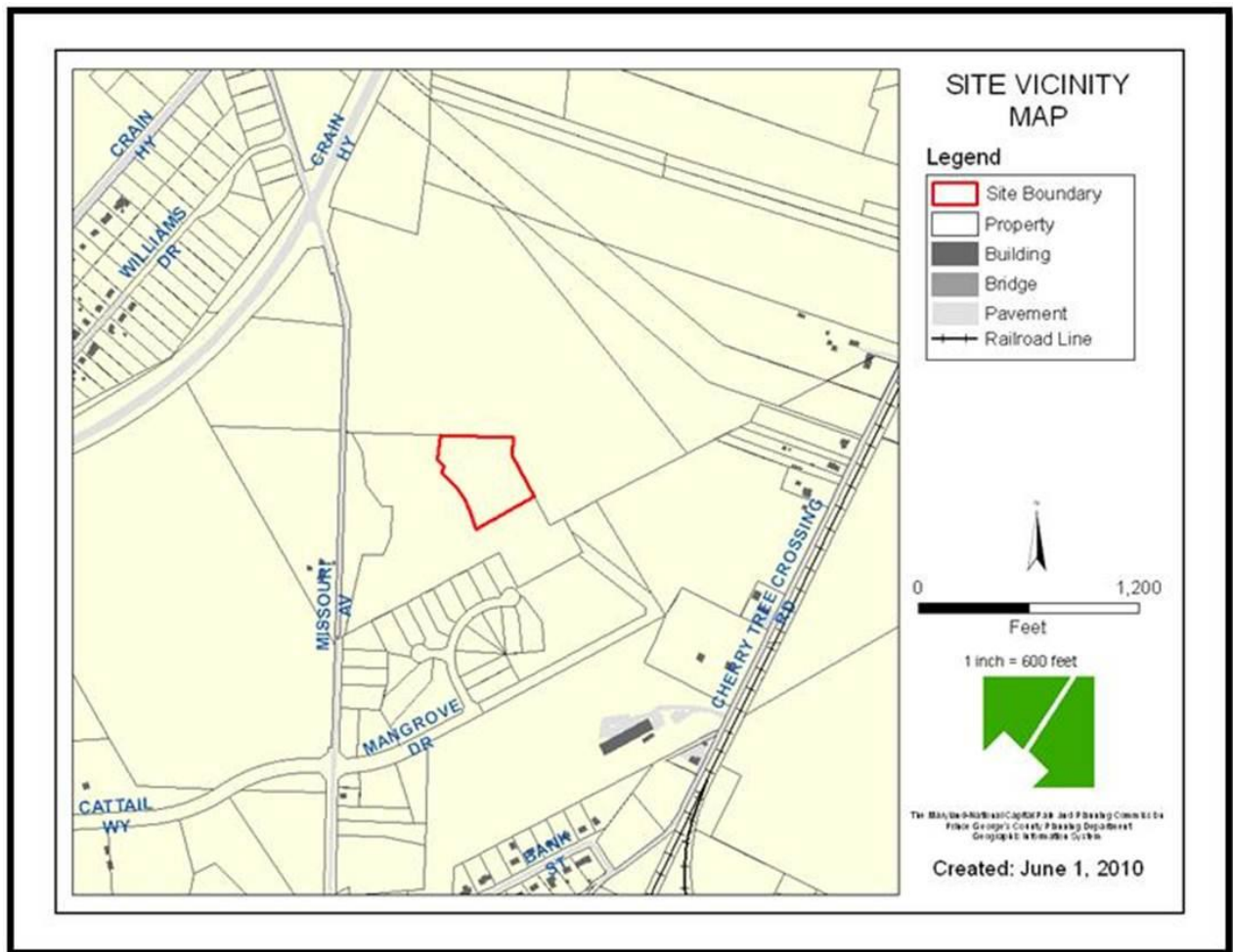
Note: Staff reports can be accessed at www.mnccppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-10001 Reconsideration Hearing

Application	General Data	
Project Name: Missouri Acres, Section 2 Location: North side of Turning Wood Court, approximately 700 feet north of Mangrove Drive in the Missouri Acres Subdivision, located on the east side of Missouri Avenue, approximately 2,500 feet south of Robert Crain Highway (US 301). Applicant/Address: Land & Commercial, Inc. Profit Sharing Plan 14416 Old Mill Road, Suite 201 Upper Marlboro, MD 20772 Property Owner: Land & Commercial, Inc. Profit Sharing Plan 14416 Old Mill Road, Suite 201 Upper Marlboro, MD 20772	Planning Board Hearing Date:	06/05/14
	Staff Report Date:	05/21/14
	Date Accepted:	02/16/10
	Planning Board Action Limit:	N/A
	Plan Acreage:	19.87
	Zone:	R-R
	Gross Floor Area:	N/A
	Lots:	5
	Parcels:	0
	Planning Area:	85A
	Tier:	Developing
	Council District:	09
	Election District	11
	Municipality:	N/A
	200-Scale Base Map:	217SE08

Purpose of Application	Notice Dates	
RECONSIDERATION HEARING: The Planning Board considered the request for reconsideration at its meeting on May 15, 2014. The request was granted, and the application is scheduled to be heard on its merits at the Planning Board meeting of June 5, 2014.	Previous Parties of Record Mailing:	05/20/14
	Sign Posting Deadline:	N/A

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



May 21, 2014

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Whitney Chellis, Supervisor, Subdivision Section, Development Review Division

SUBJECT: Reconsideration Hearing for Missouri Acres, Section 2
Preliminary Plan of Subdivision 4-10001

Preliminary Plan of Subdivision 4-10001 was APPROVED by the Prince George's County Planning Board on June 24, 2010, and the resolution (PGCPB Resolution No. 10-117) was adopted and mailed out on July 20, 2010. The Planning Board granted a waiver and a request for reconsideration on May 15, 2014, submitted by Matthew Tedesco of McNamee Hosea, limited only to Condition 15 and Finding 11 relating to police response time reporting.

The Subdivision Regulations set forth the following, in part, regarding police response times:

Section 24-122.01. Adequacy of public facilities.

- (a) **The Planning Board may not approve a subdivision plat if it finds that adequate public facilities do not exist or are not programmed for the area within which the proposed subdivision is located, as defined in the "Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure" and "Guidelines for the Analysis of the Traffic Impact of Development Proposals." The Planning Board shall require adequate public facilities, as provided in this Section and in Division 4 of this Subtitle.**
- (e) **Data Collection by Office of Audits and Investigations and Office of Management and Budget.**
 - (1) **Except as provided in Subsection (3) below, the Chief of Police and the Fire Chief shall submit the following information to the County Office of Audits and Investigations, County Office of Management and Budget, and the Planning Board:**

(D) A statement by the Police Chief that the rolling twelve-month average, adjusted monthly, for response times in the vicinity of the property proposed for subdivision is a maximum of twenty-five (25) minutes total for non-emergency calls and a maximum of ten (10) minutes total for emergency calls for service. Prior to January 2006, the Police Chief shall calculate the cumulative average response times beginning with the January 2005 response time data. In this Section, total time means the length of time from the call for service until the arrival of Police personnel on-scene or other appropriate police response.

(2) If any of the required statements in this Subsection are not provided that meet the criteria specified in this Section on the date the application is accepted by the Planning Board or within the following three (3) monthly cycles of response time reports, then the Planning Board may not approve the preliminary plat until a mitigation plan between the applicant and the County is entered into and filed with the Planning Board.

The Preliminary Plan of Subdivision 4-10001 (PGCPB Resolution No. 10-72) approval contained Finding 11 (in part) relating to residential police response times as follows:

11. **Police Facilities**—The subject property is located in Police District V, Clinton. The response time standard for emergency calls for service is 10 minutes and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on February 16, 2010.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Cycle 1	2/2009-1/2010	12 minutes	10 minutes
Cycle 2	3/2009-2/2010	12 minutes	10 minutes
Cycle 3	4/2009-3/2010	12 minutes	10 minutes

The response time standards of 10 minutes for emergency calls were not met while 25 minutes for nonemergency calls were met on April 13, 2010.

The rolling twelve-month average for response times in District V were provided for three monthly cycles following the acceptance of the application. The response time standards of 10 minutes for emergency calls was not met by the third monthly cycle.

Pursuant to the *Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure (Guidelines)* (CR-78-2005) the applicant may enter into a mitigation agreement if the actual response times for both emergency calls and non-emergency calls do not exceed twenty percent above the respective required response times. In this case the response time reports for emergency calls do not exceed twenty percent.

In accordance with County Council Resolution CR-78-2005, the applicant may offer to mitigate by paying a mitigation fee per dwelling unit, providing in kind services or pooling resources. The applicant in this case has executed a mitigation plan

which is an agreement to pay a mitigation fee per dwelling unit prior to the approval of a grading permit for the site. The agreement has been filed with the Planning Board and is a part of the record with this preliminary plan of subdivision.

Public Safety Mitigation Fee

The mitigation fee is \$3,780 per dwelling unit based on the failed rolling average response time for Police District V. County Council Resolution CR-78-2005 indicates that beginning in Fiscal Year 2007, the fee will be adjusted by July 1 of each year by the percentage change in the Consumer Price Index (CPI) for All Urban Consumers published by the United States Department of Labor from the previous fiscal year. The number was derived from the costs associated with building and equipping police stations to house the police officers that are necessary to help meet the response times. The Public Safety Surcharge is not reduced by the payment of any Public Safety Mitigation Fee.

Mitigation Agreement

The applicant has decided to solely pay a mitigation fee. In accordance with the *Guidelines* the ratified mitigation plan has been made a part of the application and record for the preliminary plan. Pursuant to County Council Bill CB-56-2005, the Plan was filed with the Planning Board to allow for the approval of the applicant's preliminary plan where approval would have been otherwise denied due to failure of the adequate facilities test. The applicant has ratified the mitigation agreement.

In this case the applicant is proposing to resubdivide two lots into five. This preliminary plan would result in three new lots from what was approved with Missouri Acres Section 2 (4-07099). In that case the applicant was not subject to a mitigation plan because the police and fire response times were adequate at that time.

However, this application is a new preliminary plan of subdivision. The two lots which were approved with 4-07099 will no longer exist in the configuration approved by the Planning Board. The applicant had filed a request for reconsideration of 4-07099 to address the issue of the master plan right-of-way (ROW) which would have allowed the applicant to proceed based on the adequate police and fire response time test that existed at the time of approval of Preliminary Plan of Subdivision 4-07099. The Planning Board did not grant the applicants request, so the subject preliminary plan was filed.

The Planning Board determined that the circumstances in this case, as it relates to the ability for the applicant to resubdivide the two unrecorded lots, are unique to this development. The applicants ability to resubdivide is due to the removal of C-613 from the master plan subsequent to the approval of the original preliminary plan creating Lots 6 and 7 (4-07099). The Planning Board in their discretion found that in this case that the mitigation fee is applicable only to three of the five lots in the subdivision.

In this case, the applicant chose to enter into a mitigation agreement. The Public Safety Mitigation Plan Commitment form was executed by the applicant on June 24, 2010, and presented to the Planning Board as a part of the record for Preliminary Plan 4-10001. The "Guidelines for the Mitigation

of Adequate Public Facilities: Public Safety Infrastructure” (Guidelines) adopted by the County Council (CR-78-2005) requires that a mitigation fee be paid prior to issuance of a grading permit. In accordance with the Guidelines, the Planning Board placed the following condition (Condition 15) on the approval of the preliminary plan:

- 15. Prior to the issuance of a grading permit for the development, A Public Safety Mitigation Fee shall be paid in the amount of \$11,340 (\$3,780 x 3 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for All Urban Consumers. The actual fee to be paid will depend upon the year the grading permit is issued.**

By letter dated March 5, 2012 (Cotillo to Piret), the Prince George’s County Police Department notified the Planning Department that a re-examination of the types of calls that should be included as emergency and nonemergency for service in adequate public facilities reporting was conducted for Police District V, in the reporting cycles for 2009–2010. In doing so, the Police Department found that certain calls were “incorrectly” categorized as emergency calls for service. Based on the cumulative average response times provided by the Police Department, the response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were in fact met for Preliminary Plan 4-10001 on April 15, 2010, as follows:

The preliminary plan was accepted for processing by the Planning Department on February 16, 2010.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date: 2/16/2010	2/2009-1/2010	7.5 minutes	23.3 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on April 13, 2010. Therefore, the Public Safety Mitigation Fee Commitment form, executed by the applicant on June 24, 2010, should be null and void and have no force and effect, or be required under this approval. Condition 15, which required the payment, should be deleted in its entirety.

RECOMMENDATION

Staff recommends the preparation of a resolution of approval for Preliminary Plan of Subdivision 4-10001 amending Finding 11 and deleting Condition 15, in accordance with the adequate response times reported by the Prince George’s County Police Department by letter dated March 5, 2012 (Cotillo to Piret), which results in the Public Safety Mitigation Fee Commitment form executed by the applicant on June 24, 2010 VOID and of no further force and effect.