



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

DETAILED SITE PLAN

DSP-05001

DEPARTURE FROM DESIGN STANDARDS

DDS-568

VARIANCE

VD-05001

Application	General Data
Project Name: LINCOLNSHIRE, PHASE II Location: Northeast quadrant of Karen Boulevard and Ronald Road Applicant/Address: PDC Lincolnshire, LLC 5840 Banneker Road, Suite 110 Columbia, MD 21044	Date Accepted: 11/09/05
	Planning Board Action Limit: waived
	Plan Acreage: 13.14
	Zone: R-18
	Dwelling Units: 156
	Square Footage: N/A
	Planning Area: 75A
	Tier: Developed
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 202SE06

Purpose of Application	Notice Dates
156 multifamily dwellings as condominiums.	Adjoining Property Owners Previous Parties of Record Registered Associations: 11/10/05 (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: 08/07/06

Staff Recommendation		Staff Reviewer: LAREUSE	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

July 30, 2009

MEMORANDUM

TO: Prince George's County Planning Board

VIA: Steve Adams, Urban Design Supervisor

FROM: Susan Lareuse, Planner Coordinator

SUBJECT: Detailed Site Plan DSP-05001
Tree Conservation Plan TCP/II/77/04-01
Departure from Design Standards DDS-568
Variance VD-05001
Lincolnshire, Phase II (formerly Walker Mill Townes)

The Urban Design staff has reviewed the detailed site plan, departure and variance for the proposed multifamily dwellings and presents the following evaluation and findings leading to a recommendation of DISAPPROVAL.

EVALUATION CRITERIA

This detailed site plan was reviewed and evaluated for compliance with the following criteria:

- a. Conformance to the conditions of Preliminary Plan 4-03084
- b. Conformance to the requirements of the Zoning Ordinance including the regulations relating to development in the R-18 Zone, the requirements of the *Landscape Manual*, and the Site Design Guidelines.
- c. Conformance to the requirements of the Woodland Conservation Ordinance.
- d. Conformance to the criteria for granting a variance per Section 27-230.
- e. Conformance to the requirements for a departure from design standards per Section 27-587.
- f. Referrals.

FINDINGS

Based on the evaluation and analysis of the subject application, the Urban Design staff recommends DISAPPROVAL of this case based on inadequate number of parking spaces. Failure to apply for a Special Exception in order to modify required bedroom percentages, inadequate lot coverage or green area, and nonconformance to the preliminary plan requirements for recreational facilities.

1. **Request**—The subject application proposes to construct 156 multifamily dwellings as condominium units. The product was originally submitted as two-family dwellings, but was modified to provide a shared entrance between four units, which classifies the product as multifamily. The plan includes site, landscape, and tree conservation plans and architecture.

2. **Development Data Summary**

	EXISTING	PROPOSED
Zone(s)	R-18	R-18
Use(s)	Vacant	multifamily dwellings
Acreage	13.17	13.17
Lots	1	1
Parcels	0	0
Dwelling Units:		
Attached	0	0
Detached	0	0
Multifamily	0	156

Other Development Data

Gross Site Area	13.17 acres
100-year floodplain	0 acres
Net Tract Area	13.17 acres

*Dwelling Units permitted (12 du./ac.)	158 units
*Dwelling Units proposed	156 units

Maximum Lot Coverage	30 percent
**Proposed Lot Coverage	30 percent

Minimum Green area	60 percent
**Green area proposed	62 percent

Parking Required (156 x 3.00)	468 spaces
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***Parking Provided	336 spaces
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Loading required (1 space per 100-300 DU)	1 space
****Loading provided	1 space

*The application has inaccurately identified the permitted density as 20 units per acre on the plans.

**The application has not demonstrated conformance to the lot coverage and green area requirements because the percentages shown do not account for one hundred percent of the land area. All the acreage of the site must be classified as either lot coverage or green area.

***Parking provided has been designed as tandem parking spaces, i.e., one space behind a garage space. According to Section 27-552 (e) (1) Parking for one-family dwellings is the only type of dwelling that allows for parking spaces to be located one behind the other. The design shown on the plans is not

permitted in conjunction with either two-family dwellings or multifamily. In order to modify this requirement, the applicant has filed a Departure from Design Standards (DDS-568) application. There is a shortage for parking proposed for the site. A departure from the number of parking and loading standards has not been submitted for the project. The applicant has calculated the number of spaces incorrectly, claiming the site is wholly within a one mile radius of a Metro station in accordance with Section 27-15-68 (a)(1), which it clearly is not.

****Loading calculations are not provided for on the site plan, however one space has been provided on the site plan. The loading space is not near any of the units, so it should be relocated to a more convenient location for use by the residents.

3. **Location**—The subject application is located on the east side of Karen Boulevard extended, north of its intersection with Ronald Road within Planning Area 75A.
4. **Surroundings and Use**—To the north is an existing townhouse development in the R-T Zone, to the east is the John Bayne Elementary School, to the south is an existing multifamily development, and to the west is the proposed Karen Boulevard and Lincolnshire Phase I, a 24-unit townhouse development recently approved as a detailed site plan DSP-04012.
5. **Design**—The proposed subdivision will have a single vehicular access point from the proposed extension of Karen Boulevard, which will be constructed as part of the project to the north, approved as DSP-04012. The plan proposes a two-part stormwater management pond, separated by the embankment created by the road entrance into the subdivision. The facility expands across the entire frontage of the property. The units across the stormwater management pond will front toward the pond and will be served by alleys in the rear of the dwellings. Steep slopes are proposed throughout the development, a result of the existing topography and the proposed unit type.
6. The project originally proposed an architectural product commonly known as two-over-twos or stacked townhouses. The Zoning Ordinance classifies this product as a two-family dwelling. Stacked townhouses are four stories with one family living on the first and second floors and one family living on the third and fourth floors. The units proposed separate entrances for each of the units. The exterior appearance looks like four-story townhouses. The Associate General Counsel of M-NCPPC opined that “two-over-two” units are not multifamily dwellings as defined by Section 27-107.01 (a)(75), but are two-family dwellings as defined by Section 27-107.01 (a)(80). In an e-mail dated January 17, 2006, Green to Lareuse, she stated the following:

“Generally speaking any type of building, as defined under the code, that is not designed for one single family is considered multifamily. However the Zoning Ordinance, definitionally and in the use tables, carves out certain types of multiple dwellings under the multifamily umbrella, i.e., duplex, three-family and quads, and treats those types of dwellings differently. The type of dwelling unit described (two-over twos) below is one of those exceptions to the multifamily umbrella. This type of multiple family dwelling is carved out and specifically listed in the definition table and the use table as a ‘two-family dwelling.’ The Zoning Ordinance pursuant to section 27-107.01(a)(1) states that the particular and the specific control the general. In this particular case the general is ‘multifamily’ and the particular and specific is ‘two-family dwelling’.”

The Zoning Ordinance allows the use of two-family dwellings in the R-18 zone, however, at a much lower density than that which was approved for the subject site at the time of the Preliminary plan. Two-family dwellings in the R-18 zone can be developed in accordance with

applicable R-T regulations as stated in Section 27-441(b) footnote 2. However, the maximum density of development in the R-18 zone for two-family dwellings is 8 units per acre, and the Preliminary plan approved multifamily units with elevators at 20 units per acre. The applicant then revised the architecture to create a shared entry for four units, which qualifies the product type as a multifamily unit, thus allowing for the density of 12 units per acre without an elevator. This revision to the architectural floor plans allows the category of multifamily to apply to the unit type; however, the final product could be deemed less desirable than the previously proposed traditional two-family dwelling which had individual entrances to each of the units.

7. When the applicant changed the architectural product type from two-family dwellings to a multifamily product type, as described above, serves the individual units. This triggered the Zoning Ordinance requirements for multifamily units to which the subject architectural product does not conform. The most important of these is the requirements of the Table of Uses, Section 27-441 of the Zoning Ordinance for multifamily units in the R-18 zone, provided below:

USE	ZONE R-18
(A) In general (CB-67-2003; CB-109-2004)	P ⁷⁶
(B) Subject to applicable bedroom percentages	P
(C) In excess of applicable bedroom percentages	SE
(D) Restricted to one-bedroom and efficiency apartments	X
(E) Higher than 110 feet (CB-85-1988)	X
(F) Up to six dwelling units in a building of no more than two stories, where the first story was previously used for commercial purposes (CB-91-2004)	X

7 6 Provided:

- (A) A condominium plat is recorded, in accordance with the provisions of the Maryland Condominium Act, setting out each dwelling unit as a separate unit, or a housing cooperative is established to own the dwelling units; and
(B) At least ninety percent (90%) of all required parking spaces are provided in a parking structure.
(CB-109-2004)

The Zoning Ordinance excerpt above lists the types of multifamily units that are permitted in the R-18 zone. The staff is of the opinion that the proposed architectural product is only permitted as a Special Exception, as stated in (C) above. The proposed product consists of primarily of three bedroom units (with an optional family room on the second floor, which will result in the unit being a two bedroom unit rather than a three bedroom unit). This proposal does not meet the bedroom percentage requirements of Section 27-419 as stated below:

Sec. 27-419. Bedroom percentages.

(a) Requirements for multifamily dwellings.

- (1) The maximum percentages of two (2) or more bedrooms per apartment unit in a separate building or project are as follows:**
 - (A) For two (2) bedroom apartments, forty percent (40%); and**
 - (B) For three (3) (or more) bedroom apartments, ten percent (10%). Unused percentages for three (3) (or more) bedroom apartment units may be added to the maximum allowed percentages for two (2) bedroom apartment units;**
- (2) Percentage limitations shall apply only to dwelling units actually constructed.**
- (3) The percentage limitations do not apply to efficiency and one (1) bedroom apartment units.**

The applicant then proceeded to revise the plans to incorporate car-ports on the rear of the unit behind the garage, so that the tandem space would ostensibly be within a “parking structure” in an attempt to qualify under footnote 76(B) above. The applicant provided the following discussion regarding structured parking in letter dated June 13, 2006:

“Without reviewing all of the details of the issues raised during the processing of the instant DSP, it suffices to say that the proposed dwelling unit type (two over two/ stacked units) have raised several interpretations which needed to be addressed. The latest of these issues is that once the entrances of the units have been modified to conform to the definition of multifamily, how is the applicant able to satisfy or qualify for an exemption from the bedroom percentage requirements. Following our research of the Zoning Ordinance and several discussions with Mr. Steve Adams and the Commission’s Associate General Counsel, M. Andree Green, Esq., the applicant has determined that the project is exempt from the bedroom percentage provisions.

“In accordance with the footnote 76 in Sec. 27-441(b) Table of Uses, set forth below, in the R-18 zone if the dwelling units are subject to a condominium plat setting out each unit as a separate dwelling unit and at least 90% of all of the required parking spaces are provided in a parking structure the multifamily dwellings are exempt from the bedroom percentages.

“76 Provided:

(A) A condominium plat is recorded, in accordance with the provisions of the Maryland Condominium Act, setting out each dwelling unit as a separate unit, or a housing cooperative is established to own the dwelling units; and

(B) At least ninety percent (90%) of all required parking spaces are provided in a parking structure.

(CB-109-2004)

“The applicant proposes that 100% of the required parking spaces will be provided in a parking structure. 50% of the spaces will be provided in private garage spaces in the individual units and the remaining 50% will be provided in carports. Because the term ‘parking structure’ is not specifically defined in the ordinance we believe this combination of structures would qualify Lincolnshire for the exemption.

“Section 27-108.01(a)(7) of the Zoning Ordinance states that ‘(w)ords and phrases not specifically defined or interpreted in this Subtitle or the Prince George’s County Code shall be construed according to the common and generally recognized usage of the language.’ The Zoning Ordinance specifically defines the two terms at issue. Section 27-107(a)(173) defines a structure as ‘(a)nything constructed or built.’ Section 27-107(a)(173) defines a parking garage as ‘(a) ‘building’ (other than a motor vehicle sales room) used for parking private motor vehicles.’ On its face the Zoning Ordinance distinguishes the two, ‘structure’ is the general and ‘parking garage’ is

the specific. Furthermore, the Zoning Ordinance, in another section distinguishes between structured parking and a parking garage. See, section 27-475.06.03(b)(1)(C)(i) and (xi).

“It is settled law in Maryland statutory construction that the legislature is presumed to have had, and acted with respect to, full knowledge and information as to prior and existing law and legislation on the subject of the statute and the policy of the prior law. *Police Commissioner v. Dowling*, 379 A.2d 1007 (1977).

“Section 27-475.06.03, enacted pursuant to CB-35-1998, which makes a distinction between structured parking and parking garages was enacted in 1998. CB-109-2004, the bill that established the 90% structured parking requirement was enacted six years later. Under established statutory construction law, we must presume that the council was aware of the distinction created under CB-35-1998 when it enacted CB-109-2004.

“For all of the reasons set forth above, we believe that the Planning Board may find that DSP-05001 is exempt from the bedroom percentages.”

Staff comment: The staff disagrees with the applicant’s interpretation of the term parking structure. The staff believes that the intent of CB-109-2004 was to require a parking garage. We believe that the “common and generally recognized usage,” as stated under Section 27-108.01(a)(7), of the term parking structure is to mean a parking garage and that this was the intent of CB-109-2004. The applicant’s arguments reduce the requirements of the law to near meaningless since under his interpretation, since under his interpretation even a parking lot would qualify as a parking structure.

8. **Departure from Design Standards DDS-568** - The plan proposes approximately 156 of the parking spaces as tandem parking spaces, i.e. one surface space behind a garage space. This proposed configuration is not allowed under Section 27-552(e)(1), which restricts tandem parking to one-family dwellings. The applicant provides the following justification for the departure:

“Required parking is based on the ratio of two (2) spaces per dwelling unit for a total number of three hundred twelve (312) parking spaces. One (1) indoor, garage parking space has been provided for each dwelling unit. The second required space has been designed as a tandem space, i.e., one space behind each garage space. According to Section 27-552 (e)(1) parking for one-family dwellings is the only type of unit which allows for parking spaces to be located one behind the other.

“The applicant proposes to provide the second required parking space for each of the approved dwelling units behind the garage spaces for each of the 156 multifamily units. Each of the tandem spaces will be full size standard spaces which are nine and one-half (9 1/2) feet wide and nineteen (19) feet in long.

“This application is unique in that each of the multifamily units consists of four individual dwelling units of two stories over two stories. Each of the four individual units has a one (1) car garage which is located on the ground floor and accessed from a common drive running perpendicular to the rear of the units. The second required parking space for each dwelling unit has been provided just outside the garage as a full sized (9 1/2’ x 19’) tandem space. Unlike most multifamily projects constructed in the County these tandem spaces will be assigned to the same resident who occupies the garage space.

“Section 27-588(b)(7) of the Zoning Ordinance, ‘Required Findings,’ establishes the findings that are required to be made by the Planning Board in order to grant the departures requested. This section will address each required finding in turn:

The purposes of this Part (Section 27-550) will be served by the applicant’s request;

“The use of tandem spaces will allow the applicant to provide all of the required on-site parking associated with the proposed 156 multifamily units. This arrangement will also have the added benefits of minimizing the amount of impervious surface area and retaining walls necessary to provide the required number of parking spaces on the site.

“The location of tandem parking spaces to the rears of the proposed units will create parking courts off of the primary vehicular access drives throughout the project. This arrangement will discourage the use of any of the surrounding public streets for parking.

“The location of the tandem spaces behind the multifamily units will also hide the parking courts from view from Karen Boulevard. This neo-traditional design will present a view across the heavily landscaped storm water management facility to the uninterrupted views of the front facades of the units. Unlike many multifamily dwellings which are surrounded by a sea of parking the proposed arrangement will protect and enhance the residential character of the site and the surrounding area.

“Providing the two required parking spaces for each unit immediately adjacent to the units will improve access for the residents and their guests. By contrast, in many older, more traditional multifamily projects the large common lots are located quite some distance away from the individual units. The increase proximity will also be more convenient and safer especially during periods of inclement weather and in the evenings.

“For all of the reasons stated, the purposes of the Zoning Ordinance will be equally well or better served by this application through the provision of well designed parking garages for the safety and convenience of those who use it.

(i) The departure is the minimum necessary, given the specific circumstances of the request;

This request is not to reduce the number of parking spaces, but rather to locate the required parking spaces in an alternative arrangement. The proposed tandem arrangement of one (1) standard (9.5’x19’) space and one (1) interior garage will allow for the provision of adequate on-site parking for residents and guests. This arrangement is the most efficient and functional design, given the unique physical constraints of shape and topography. The requested parking arrangement is the most practical solution. No additional departures are necessary or requested.

(ii) The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominately developed prior to November 29, 1949;

The subject property is located in the “Developed Tier” of the County in the Capitol Heights area of the County. The new upscale multifamily units are precisely the type of infill development use that the County Executive and County Council have been encouraging to revitalize the inter-

Beltway communities. Again, the departure requested will not reduce the number of on-site parking spaces provided, it will only allow for an alternative location of those spaces.

“The site itself is also oddly configured and is characterized by steep topography which requires the use of excessive grading and/or retaining walls to create level pads for the buildings and parking. Utilizing an alternative parking arrangement which will eliminate the need for additional access drives or a reduction in the number of spaces provided.

- (iii) **All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical;**

This request is not a departure from the number of spaces required, but only a request for a departure from the location of the parking spaces and the means of accessing those spaces.

- (iv) **Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.**

The requested departure will enable the applicant to construct high quality multifamily units on the subject site along with adequate numbers of on-site parking spaces to accommodate the residents and their guests. Grant of the departure will greatly reduce the possible infringement of any of this project’s residents or guests upon the existing parking for adjacent residential development.

“For the above stated reasons, the applicant respectfully requests that this departure to allow the use of tandem standard parking spaces for the proposed multifamily development be granted.”

Staff comment: The staff agrees with the applicant’s findings and analysis for the justification for tandem parking spaces in conjunction with the use of the property for multifamily. If the staff were recommending approval of the underlying case, then the staff would also recommend approval of this request of approval of the Departure from Design Standards.

- 9. **Previous Approvals**—The property is the subject of Preliminary Plan 4-03084, which was approved by the Planning Board and the resolution of approval PGCPB Resolution 04-03, which was adopted on January 29, 2004. On October 27, 2005, the Planning Board granted a 3-month extension.

On April 20, 2006, the Planning Board approved a one-year extension to Preliminary Plan 4-03084. The subject preliminary is valid until April 29, 2007.

The preliminary plan included two tracts of land. On the west side of Karen Boulevard is R-T zoned land that is not the subject of this detailed site plan. The remaining portion is on the east side of Karen Boulevard and zoned R-18, which is the subject of this application.

The preliminary plan was approved for the development of multifamily dwelling units with a density of 20 dwelling units per acre because the buildings were to be four stories with an elevator (27-442(h) Footnote 20). The approved density, based on that proposal, was 262 dwelling units. However, the applicant has changed the design of the unit type, and is no longer proposing an elevator in the units, therefore cannot develop with a density of 20 dwelling units

per acre. The allowed density for a building without an elevator is 12 units per acre per Section 27-442(h) Table VII, Density, footnotes 3 and 4.

The approved preliminary plan included the following conditions of approval that warrant discussion pertaining to conformance of the detailed site plan to the approved preliminary plan:

- 5. Review of the DSP shall include the review of the proposed stormwater management facilities for views and landscaping. The pond at the entrance of the subdivision shall be designed as an amenity to the community.**

Comment: The plan proposes a large stormwater management pond at the front of the project. The plan proposes a two-part stormwater management pond, separated by the embankment created by the road entrance into the subdivision. The facility expands across the entire frontage of the property. The units across the stormwater management pond will front toward the pond. Landscaping is minimal along the road edge, because it is an embankment and the Department of Environmental Resources (DER) prohibits planting on embankments. However, street trees are proposed along the street line.

- 6. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along both sides of internal streets unless modified by the Department of Public Works and Transportation.**

Comment: The site plan shows sidewalks on both sides of the road.

- 7. In accordance with Section 24-135(b) of the Subdivision Regulations, the applicant shall be providing private on-site recreational facilities. Facilities shall be provided in accordance with the *Parks and Recreational Facilities Guidelines* on Parcel A for the townhouses and on Parcel C for the multifamily dwelling units.**

Comment: Parcel A for the townhouses has an approved detailed site plan, DSP-04012 which was approved by the Planning Board with tot-lot shown on the plan. The plan was subsequently revised by the District Council, who deleted the tot-lot due to concerns of attracting undesirable criminal action. The applicant has provided a letter dated December 19, 2005, that states the following:

“Please be advised that the District Council requested in Condition No. 7 that there be three options for recreational facilities: (1) clear and grade the area and leave an open space, (2) pay a fee in lieu, or (3) provide recreational facilities in accord with the DPR guidelines.

“It is my client’s decision that he will pay a fee in lieu. It is my client’s understanding that the District Council with respect to Districts 5, 6, and 7 are looking for a central park in the vicinity of the site. Therefore, we believe the fee in lieu option is the appropriate option for recreational facilities, especially given that the property adjoins public park land.”

Comment: It appears that the applicant is trying to fulfill the condition above with the provision of a fee-in-lieu, based on the District Council’s previous action in the review and approval of Phase I of the project, approved under DSP-04012. This proposal by the applicant does not conform to the approved preliminary plan.

10. **Variance-Conformance to the Requirements of the Zoning Ordinance in the R-18 Zone—**
The proposed plan is not in conformance with the development regulations for the R-18 Zone in regard to the distance required between unattached multifamily buildings. The applicant filed a variance from the regulations and provides the following justification for the variance:

“PDC Linclonshire, LLC (the applicant) proposes a variance from Section 27-442(g) of the Prince George’s County Zoning Ordinance (the “Zoning Ordinance”) and as permitted through Sections 27-230, 27-239.03 and 27-239.04 of the Zoning Ordinance in conjunction with Detailed Site Plan No. DSP-05001 (the “DSP”). The subject property is located on the east side of Karen Boulevard Extended, north of its intersection with Ronald Road, in Capitol Heights, Maryland and is more specifically known as Lot 1 and consisting of 13.14 acres of land (the “Site”). The applicant is filing this proposed variance for the allowance of less than the required distance between unattached multifamily dwellings and courts as set forth in Section 27-442(g).

“The DSP application for the Site was accepted for review by the Maryland-National Park and Planning Commission (the “M-NCPPC”) on or about November 9, 2005. Prior to the scheduled September 14, 2006 Prince George’s County Planning Board hearing on the matter, it was questioned during review whether the distance between buildings was less than what is permitted in the R-18C Zone. As a result, the Technical Staff recommended that the instant variance request be filed in order to justify the distance (side of building to side of building) between unattached multifamily dwellings.

“In Prince George’s County, a final decision involving a zoning case must be based only on the evidence in the record, and must be supported by written findings of basic facts and written conclusions. Md. Ann. Code art. 28, § 8-123 (2004); see also Zoning Ordinance §27-141. The basic facts and conclusions required in order to approve a variance request are found in Zoning Ordinance §27-230, as permitted by §27-239.03. See also *Cromwell v. Ward*, 102 Md. App. 691, 701, 651 A.2d 424, 429 (1995) (stating that a zoning board has authority to grant variances from the strict application of regulations when by reason of exceptional narrowness, shallowness, or shape of specific parcels of property or by reason of exceptional topographical conditions or other extraordinary situations of specific parcels of property, the strict application would result in unusual practical difficulties to, or exceptional or undue hardship); *Dolan v. City of Tigard*, 512 U.S. 374, 380 (1994)(variances are granted only where it can be shown that, owing to special circumstances related to a specific piece of the land, the literal interpretation of the applicable zoning provisions would cause ‘an undue or unnecessary hardship’ unless the variance is granted); see generally *Mastandrea v. North*, 361 Md. 107, 760 A.2d 677 (2000); *McLean v. Soley*, 270 Md. 208, 310 A.2d 783 (1983).

“The applicant hereby presents evidence that the proposed variance is justified based on the standards and requirements of §27-230 of the Zoning Ordinance. The requirements, as applicable, are addressed in turn below:

Section 27-230. Criteria for granting appeals involving variance.

(a) A variance may only be granted when the Board of Appeals finds that:

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

“The Site is uniquely shaped and possesses significant topographic relief and other extraordinary conditions which necessitate the need for the requested variance. The existing slope of the adjacent roadway, Karen Boulevard, and limited sight distances severely restrict the location and number of ingress and egress points. This situation is further exacerbated by the requirement for a large on-site storm water management facility which can only be located along the entire eastern edge of the site between Karen Boulevard and the proposed multifamily dwellings.

“As a result of the existing road grades, the existing topography and the large, required on-site storm water management facility the possible areas, the locations and orientations of the multifamily buildings and the associated parking are limited. The uniqueness and peculiarity of the Site in comparison to the surrounding properties causes §27-442(g) to impact the Site disproportionately.”

Staff comment: The staff disagrees with the applicant’s assertion that the topography of Karen Boulevard and the onsite topography are “Exceptional topographic conditions “ which justify the distance between the buildings to be reduced from that distance required by the Zoning Ordinance. The property is steep, however, the unit types proposed for the site is one that would be best suited on a flat parcel of land, therefore, the applicant has exacerbated the steep slopes of the property. The applicant has chosen to develop a unit type that does not allow for the transition of grades, since the unit is a slab-on-grade product. Alternatively, the project would have been more appropriately developed with a product type more friendly to the existing topography.

(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

“In light of the uniqueness and characteristics of the Site, as described above and which results in a disproportionate impact for the use of the Site, compliance with the regulations of §27-442(g) would result in an unreasonable hardship and undue burden on the applicant. Were the applicant to comply with the regulations set forth in §27-442(g), the lot yield would be significantly reduced thus placing an undue hardship on the property owner. Keeping in mind that the approved density of development is 262 dwelling units, as established by Preliminary Plan 4-03084, the current proposal of 156 dwelling units already represents a 40% reduction in density. Any further reduction in approved density due to the rigid application of the distance between buildings would constitute an exceptional and undue hardship. “

Staff comment: The applicant’s argument that the project has suffered a reduction of 40 percent in density from the approval of the preliminary plan is not a viable argument. At the time of the preliminary plan for this case the proposal was for multifamily units with elevators, which allows for a density of 20 units per acre. The applicant has changed the development concept of the property by proposing the modification to the two-family dwelling type, also known as two-over-twos or stacked townhouses, to qualify the product as a multifamily unit category for the purpose of allowing a greater density than is allowed under the R-18 zone for two-family dwellings. When analyzed in this way, the property would have only yielded 8 units per acre, or 105 dwelling units. By altering the floor plan of the units, and deleting the separate entrance for each of the units and combining the entrances into one to serve four units, the applicant has gained an increase in density of 51 units. Therefore the staff disagrees with the applicant’s argument that the project has suffered a loss of units since the approval of the preliminary plan; the applicant’s choice of unit type is entirely responsible for the decrease in density. Any hardship resulting from a loss of density is entirely self-imposed.

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

“In terms of the Master Plan, the proposed use will be in conformance. The Site is within Planning Area 75A, which is guided by the 2002 *Prince George’s County General Plan* (the “General Plan”) and the 1985 *Suitland-District Heights Approved Master Plan & Adopted Sectional Map Amendment* (the “Master Plan”). The Site is within the Developed Tier of the General Plan and situated within walking distance of the Addison Road Metro.

“The variance from the distance (side of building to side of building) between unattached multifamily dwellings will not impair the primary intent of the General Plan Developed Tier’s policies which is encourage and facilitate medium to high density, quality infill development. In fact, grant of this variance will promote the General Plan policies by providing flexibility and innovation when redeveloping infill sites.

“The Master Plan and SMA designated the subject property R-18 (Multifamily Medium Density Residential). The proposed multifamily two-over-two units, with structured parking, meet the intent and purpose of the Master Plan and preserve its integrity

“Due to the unique and unusual conditions of the Site, a disproportionate impact to the applicant results upon application of §27-442(g) of the Zoning Ordinance, which in turn creates an unreasonable hardship for the applicant in development of the Site. As such, pursuant to §§27-230 and 27-239.03 we would respectfully request that a variance be granted to lessen the distance between multifamily buildings as illustrated on DSP-05001.”

Staff comment: The staff does not support the applicant’s requested variance for the project, primarily for reasons stated above, under criteria number two. Besides that issue, the staff could not recommend approval of the variance because the applicant has not clearly identified the amount of the variance needed. The height of building is a factor in determining the distance between multifamily buildings, but that information is also missing in the form of architectural elevations.

11. **Conformance to the Requirements of the Prince George's County *Landscape Manual***—This development proposal is subject to Sections 4.1, Residential Requirements, and 4.7, Buffering Incompatible Uses.

In regard to Section 4.1 of the *Landscape Manual*, the plans indicate the minimum number of trees required for the development is 217 shade trees. The plant schedule indicates that this requirement was met.

Section 4.7 of the *Landscape Manual*, Buffering Incompatible Uses, is required between the proposed development and the adjacent townhouse site and the adjacent school site. The required buffer between the subject property and the townhouses to the north is a minimum 10-foot-wide landscaped strip and 20-foot-wide building setback, both of which have been provided. The required number of plant units has been provided. The required buffer yard between the subject property and the adjacent school site (John H. Bayne Elementary) is a 20-foot-wide landscaped yard and a 30-foot-wide building setback. The plans provide for the requirements above.

12. **Conformance to the Requirements of the Woodland Conservation Ordinance**—The property is subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because it has a previously approved Tree Conservation Plan. A Type II Tree Conservation Plan

(TCPII/77/04) was previously approved in conjunction with DSP-04012. A revised Type II Tree Conservation Plan (TCPII/77/04-01) in conjunction with the current application has been reviewed and was found to require minor revisions in order to be in conformance with TCPII/77/04. The revised Type II Tree Conservation Plan as submitted must be revised to clearly identify each phase of development.

Recommended Condition: Prior to certificate approval of the detailed site plan, TCPII/77/04-01 shall be revised as follows:

- a. Revise the TCPII to include both Phase I and II, which constitute the entire site in compliance with the approved Type I Tree Conservation Plan TCPI/58/03.
 - b. Remove from the plan “Preliminary, not approved, not for construction.”
 - c. Revise Parcel “A” Conservation Area to reflect compliance with revised final plat.
 - d. Eliminate the use of any Woodland Conservation Area that is less than 35 feet in width.
 - e. Revised the reforestation on Parcel A to reflect what was approved on the TCPI.
 - f. Show correct amount of total clearing on Phase II (cumulative acres of net tract also changes).
 - g. Make all other changes and adjustments in the worksheet as required.
 - h. Revise the worksheet accordingly to address any changes made to the plan.
 - i. Have the plan signed and dated by the qualified professional who prepared the plan.
13. **Archeological Review**—Phase I (Identification) archeological investigations are recommended on the above-referenced property. According to the 1861 Martenet map, members of the Berry family including Thomas Berry, Albert Berry, and J.E. Berry, Jr., had residences to the north and east of the property. The Berrys were slaveholders in the County, and archeological remains of slave quarters or burials may be present on the property.
- Phase I archeological investigations should be conducted according to Maryland Historical Trust (MHT) guidelines, *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), and the Prince George’s County Planning Board *Guidelines for Archeological Review* (May 2005), and report preparation should follow MHT guidelines and the *American Antiquity* or *Society of Historical Archaeology* style guide. Archeological excavations shall be spaced along a regular 15-meter or 50-foot grid, and probing should be conducted also to search for possible burials. Excavations should be clearly identified on a map to be submitted as part of the report.
14. **Environmental Review**— The Environmental Planning Section originally reviewed the subject property as Preliminary Plan 4-87179, and a Special Exception (SE-4447). The previously approved preliminary plan of subdivision for the townhouses lots on the subject property has expired without recordation. The Environmental Planning Section last reviewed the subject property in 2003 as Preliminary Plan 4-03084 in conjunction with TCPI/58/03, which were approved with conditions. The subject property has an approved Conceptual Stormwater Drain Plan, CSD #20523-2003-01, dated September 16, 2004.

The subject property is located in the northeast quadrant of the intersection of Karen Boulevard and Ronald Road, approximately 1,000 feet north of Walker Mill Road. The surrounding properties are residentially zoned. The site is characterized by terrain sloping toward the east and west of the property, and drains into unnamed tributaries of the Lower Beaverdam Creek watershed in the Anacostia River basin. The predominant soil types on the site are Adelphia, Sandy Land, Chillum, Beltsville and Sassafras. These soil series generally exhibit slight to moderate limitations to development due to steep slopes, impeded drainage and seasonally high water table. The site is undeveloped and fully wooded. Based on information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication entitled, "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 Site. There are streams, Waters of the US, and wetlands associated with the site. There are no floodplains, Marlboro clays or scenic or historic roads located on or adjacent to the subject property. The subject property is located quite some distance away from any major noise generator. This property is located in the Developed Tier as delineated on the approved General Plan.

A Forest Stand Delineation (FSD) was reviewed with the preliminary plan submittal, and was generally found to address the requirements for detailed FSD in compliance with the requirements of the Woodland Conservation Ordinance. No further action is required with regard to the detailed FSD.

A Stormwater Management Concept Approval Letter (CSD# 20523-2004-01) dated September 16, 2004, was submitted with the review package. A copy of the approved stormwater management concept plan is required for the office file, and is in conformance with the detailed site plan.

Recommended Condition: Prior to certificate approval of the detailed site plan, a copy of the approved stormwater management concept plan shall be submitted. The stormwater management concept plan shall reflect the same limits of disturbance as the TCPII.

15. **Transportation**—The subject application was referred to and reviewed by the Transportation Planning Section. The transportation staff commented that the widening of the proposed street at Karen Boulevard to at least 36 feet and the prohibition on on-street parking along the same street is appropriate.
16. By telephone call from Rick Thompson, Department of Environmental Resources (DER) to Susan Lareuse, DER acknowledged that the proposed stormwater management ponds shown on the plans are in conformance to the concept plan approval.
17. As required by Section 27-285(b), the detailed site plan does not represent a reasonable alternative for satisfying the site design guidelines in regard to the following:
 - a. The incorporation of carports located directly adjacent to the rear-loaded garage doors of the units may not provide for safe and efficient use by the residents in regard to turning and backing movements of vehicles.
 - b. The loading space is not conveniently located.
 - c. Insufficient visitor parking has been provided with convenient pedestrian access to buildings provided with convenient pedestrian access to buildings.

- d. The on-site green areas are steep in slope and will not maximize the utility of the space and may cause maintenance issues if erosion of slopes occurs. Further, the unresolved issues relating to the failure to file a special exception, the inconsistency in the green area and lot coverage calculations, and inadequate parking and nonconformance to the preliminary plan limit the staff's ability to support the plan.
- e. Conformance with preliminary plan for stormwater management pond and recreational facilities

RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Urban Design staff recommends that the Planning Board adopt the findings of this report and DISAPPROVE TCP11/77/04-01, Variance VD-05001 and Detailed Site Plan DSP-05001 for Lincolnshire, Phase II.

Further, based on the evaluation and analyses of the items above, the staff also recommends that the Planning Board DISAPPROVE the Departure from Design Standards DDS-568