

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**ZONING MAP AMENDMENT
A-9895-C/01**

DECISION

Application: Amendment of Basic Plan Conditions
Applicant: Quad Construction Corporation
Opposition: None
Hearing Date: March 17, 2021
Hearing Examiner: Maurene Epps McNeil
Recommendation: Approval with Conditions

NATURE OF PROCEEDINGS

- (1) Applicant seeks an amendment of the Basic Plan for A-9895-C-01, to remove/revise certain conditions of approval set by the District Council in its approval of A-9895-C as part of its adoption of CR-34-1994. The subject property consists of approximately 169.12+ acres in the R-L (Residential Low Development) Zone located on both sides of Largo Road (MD 202), south of Kent Drive and approximately 3,000 feet north of Old Marlboro Pike, and identified as 14300-14318 Rubens Court, 4100-4219 Taleen Court, 4000-4114 Gorky Drive, 4000-4007 Liza Lane and 14702-14805 Agassi Court, Upper Marlboro, Maryland.
- (2) The Technical Staff reviewed the Application and recommended approval. (Exhibit 9) The Planning Board accepted Staff's recommendation as its own.
- (3) No one appeared in opposition to the request at the hearing held by this Examiner.
- (4) At the conclusion of the hearing the record was left open to allow Applicant and/or representatives of the Department of Parks and Recreation ("DPR") to submit several items. The last of these items was received on March 19, 2021 and the record was closed at that time.

FINDINGS OF FACT

Prior approvals

- (1) The Technical Staff provided a detailed analysis of the prior zoning/subdivision

approvals applicable to the subject property. (Exhibit 9, pp.2-5)

(2) In its 1994 adoption of the Subregion VI Study Area Sectional Map Amendment, the District Council approved the rezoning of the subject property to the R-L Zone and the Basic Plan, with the following considerations and conditions:

(Zoning Application A-9895)

The Basic Plan is approved with the following land use types, quantities, relationships, conditions, and considerations:

I. Land Use Types and Quantities:

153 single-family detached dwelling units Open space

Homeowner Recreation Facilities Trails

Base Density 1.00 du/acre 150 dus

Density Requested	1.02 du/acre	153 dus
Density Increment		

Factor Needed	2 percent	3 add'l.
dwelling units		

Maximum Density	1.02 du/acre	153 dus
-----------------	--------------	---------

II. Conditions:

1. Prior to the issuance of any building permits on the subject property, the widening of MD 202 to a four-lane divided highway from south of MD 193 to White House Road (as shown in the Secondary Development and Evaluation Program of the proposed FY 1994-99 Consolidated Transportation Program), shall be in place, under construction, or programmed with 100% construction funding in the next five years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program; or, in the event that a fair share contribution is made by the applicant and/or the applicant's heirs, successors, or assigns, 100% of the remaining construction funds will be committed in

- writing by the SHA, the DPW&T, or both agencies.
2. Access to the E-6 facility from the subject property shall be limited to a single location at or near the applicant's proposed south site entrance, as shown on the Basic Plan.
 3. At the time of Comprehensive Design Plan submission, the applicant and/or the applicant's heirs, successors, or assigns shall show a stub connection to the property immediately to the south (Robert L. Wurtz and Weeks Company, Liber 4620, Folio 929 on Tax Map 92, Grid F-3).
 4. Only two lots shall be permitted in the area between existing and proposed MD 202. These lots shall be located in the southernmost area of this land.
 5. The area marked "B" just south of the Thorn Hills subdivision in the northwest corner of the site, and the area marked "A" in the southeast corner of the site, east of the preservation zone, shall be reserved for lots with an approximate area of 40,000 square feet.
 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.
 7. The Basic Plan shall be revised to show the "building area envelopes" coincident with or outside the Preservation Zone, to the greatest extent possible.
 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.

9. A Stormwater Management Concept Plan shall be approved prior to the approval of the Comprehensive Design Plan.
10. As part of the submittal of the Comprehensive Design Plan, the applicant shall include a conceptual layout of water and sewerage service to and within the site and an analysis of the impact of the construction of these facilities. The applicant shall minimize the impact of construction.
11. The applicant shall obtain approval of the 100 year floodplain elevations from the Department of Environmental Resources, prior to preliminary plat approval.
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.
13. The applicant shall dedicate 105 acres to the M-NCPPC as shown on Exhibit B (in file).
14. Land to be dedicated shall be subject to Conditions 1 through 7 of Exhibit C (in file).
15. The applicant shall construct a hiker/biker trail along Western Branch with connections provided to the Forest Hills Community where possible. Feasibility and location of trail connections will be determined during the consideration of the Comprehensive Design Plan.

16. The hiker/biker trail shall be constructed in conformance with DPR's Guidelines for Park and Recreational Facilities.

17. The "A" development pod east of realigned MD 202 and south of the proposed access road shall not include any land in the Preservation Zone. The area west of the Preservation Zone and east of realigned MD 202 shall not be included in any development pod (see area marked "1" on Staff Exhibit A). The area currently shown east of the Preservation Zone, just south of the proposed access road and just west of development Pod "C" may be incorporated into Pod "C" (see area marked "2"). South of Pod "C", the western boundary of development Pod "A" shall be the eastern boundary of the Preservation Zone (see area marked "3".)

18. On the west side of MD 202, Pod "B" in the southwest portion of the property shall be eliminated. Pod "C" may be expanded to include the area of Pod "B" that is outside the Preservation Zone (see area marked "4" on Staff Exhibit "A").

III. Consideration:

1. The internal road in area "C" west of MD 202

shall be located at the edge of the development pod to create a view into the preservation area.

(Exhibit 9, Backup pp. 11-16)

Applicant's request

(3) Applicant is a Corporation that has been issued a certificate in good standing from

the State Department of Assessments and Taxation authorizing it to transact business within the State. (Exhibit 11)

(4) Applicant originally asked that Conditions 15 and 16, supra, be revised as follows:

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

(Exhibit 1)

(5) Applicant provided the following explanation for the instant request:

Currently, Conditions 15 and 16 are basic plan A-9895 require that a trail be built on the [W]estern [B]ranch owned by the Park and Planning Commission's Parks Department ["DPR"]. Specifically, Conditions 15 and 16 state the following. Condition 15, the applicant shall construct the hiker-biker trail along the [W]estern [B]ranch with connections provided to the Forest Hills community where possible. Feasibility and location of trail connections will be determined during the consideration of the comprehensive design plan.

Condition 16, the hiker-biker trail shall be constructed in conformance with DPRs ... guidelines for park and recreational facilities. Since the approval of A-9895 in 1994, 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. However, several trails have already been built along the Collington [T]rail system, which is [to]the east of the property. Therefore, building a trail system on the western branch will not connect to any other trail systems and will not provide a greater good.

Along the Collington [T]rail on the other hand, there is a need to connect several trail systems which [DPR] ... wishes to connect for the greater good of Prince George's County residents. In my meetings with representatives of [DPR] ...[DPR] offered that we pay a fee in lieu of [\$] 200,000 to them to so that they may proceed with the connectivity of the trails on the Collington [T]trail. They calculated this amount as a fair in lieu payment. After some consideration and review, I agreed to that amount.

[DPR] will use those funds to connect portions of existing trails that are located east of the property and which will better serve the larger community because of

the continuity of those trails...

Since the property is bifurcated by Route 202, we are providing ... the Forest Hill residents HOA maintain[ed] recreational facilities on both the eastern and western portions of the property. This basic plan amendment, therefore, maintains the private recreational facilities in place and with regard to the public recreational facilities, which is the trail, we are providing a greater good to the community with this amended basic plan....

(T. 8-11)

(6) The Technical Staff recommended approval of the request, with a slight revision to Applicant's language:

The fee-in- lieu proposed by the applicant is \$200,000, which was agreed upon in consultation with the Prince George's County Department of Parks and Recreation (DPR); however, staff recommends that this fee be indexed to inflation and paid in full to DPR, prior to approval of more than 50 percent of the building permits. It is noted that the applicant has proposed that the fee be distributed per dwelling unit in their request; however, A-9895 was approved for significantly more dwelling units than were achieved with subsequent approval. Therefore, staff recommends that the fee be applied in a manner that will ensure the full amount is received for contribution to development of trails in the area....

[An economic analysis] is not required because the applicant is not proposing retail or commercial uses....

The proposed revision will not impact motor vehicle traffic at the subject site, the number of motor vehicle trips generated from the subject site, or existing conditions of approval of findings related to motor vehicle traffic....

Other than impacting the master plan trails recommendation, which is discussed above, this proposal does not impact any prior findings or conditions relevant to adequate public facilities available [to] serve ... the development. Adequate police, fire and rescue, and water and sewer facilities are not affected by the trail amendment.

Subtitle 24 of the Prince George's County Code provides the only methodology for testing adequate public facilities to ensure that the development will be adequately served. A preliminary plan of subdivision (PPS) 4-03071 was previously approved for this site and applied the required methodology, which included implementation of the master plan trail on the subject site. The applicant has filed for reconsideration of PPS 4-03071, in order to revise the applicable conditions of that approval of the Western Branch Trail construction. However, because construction of the Western Branch Trail is a condition of the zoning approval for this site, the reconsideration cannot move forward prior to this application. Staff must find that events have occurred to render the master plan recommendation for

a trail at this location no longer applicable, in order to entertain the reconsideration of the PPS....

The Forest Hills site has an extensive network of streams and wetlands that will be retained and wetlands that will be retained and provide natural buffering to adjacent residential development. The development will preserve and enhance environmentally sensitive areas by careful placement of development envelopes within the overall project, while providing water quality benefits for the Western Branch and Collington Branch sub-watersheds and provide extensive green space for future residents of the Forest Hills development, as well as adjacent existing neighbors. The amendment proposed to the basic plan maintains the environmental relationships between the proposed low-density development pattern and the extensive environmentally sensitive features of the site, demonstrate compatibility between the land use proposed and surrounding land uses, and promotes the health, safety, and welfare of the residents of Prince George's County....

Staff finds that the proposed amendment of A-9895 [C] meets the requirements of Section 27-195 (b)....

Staff recommends APPROVAL of [Basic Plan A-9895]... subject to the original conditions, and consideration, with amended Conditions 15 and 16 as follows;

15. In lieu of construction of the Western Branch Trail, improvements of the trails systems to the east of the property shall be funded in part by the total payment of \$200,000 to the Prince George's County Department of Parks and Recreation, which shall be indexed to inflation 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 herein shall be solely at the discretion of the Prince George's County Department of Parks and Recreation.

(Exhibit 9, pp. 4- 6)

(7) Applicant agreed with the recommended changes to Conditions 15 and 16. (T. 11)

(8) DPR's representatives appeared at the hearing. They noted that the fee in lieu was based on the linear footage of the plan but could not provide the actual formula used. The representatives also could not explain why DPR's recommended changes to Conditions 15 and 16 were not tied to some type of financial index and location.

(9) After the hearing, DPR submitted the following revisions to Conditions 15 and 16:

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.

(Exhibit 10)

(10) The DPR representatives also submitted the formula used in assessing the amount of the proposed fee-in-lieu. (Exhibit 13)

LAW APPLICABLE

Amendment of Basic Plan Conditions

(1) The requested amendments must be approved in accordance with the procedures set forth in Section 27-197 (c) of the Zoning Ordinance.

Sec. 27-197. Amendment of approved Basic Plan.

- (c) If an amendment of an approved Basic Plan does not involve a change in land area or an increase in land use density or intensity, is for the purpose of adding a Planned Environmental Preservation Community, or is for the purpose of allowing uses permitted in the E-I-A Zone on land in the R-S Zone pursuant to Section 27-515(b) of this Code, the Plan may be amended by the Council in accordance with the following procedures:
 - (1) The applicant shall file the request (in triplicate) with the Clerk of the Council. The petition shall be accompanied by a new reproducible copy of the proposed new Basic Plan (graphic only) or three (3) copies of the proposed new Basic Plan Text (as necessary depending on the amendment proposed). The Clerk's office shall advise the applicant (in writing) that the Technical Staff has found that the request is complete. If an amendment to an approved Basic Plan is proposed for the purpose of adding a Planned Environmental Preservation Community, the applicant must hold a meeting to solicit public comment on the Plan for the purpose of incorporating comments concerning use, design, and density, to the extent possible, into the Plan. The applicant shall send by certified mail notice of the date, time, place and subject matter of the meeting to all adjoining

property owners, including owners whose properties lie directly across a street, alley, or stream, to all persons of record in the original application, and to every municipality located within one (1) mile of the applicant's property. Evidence that the applicant has complied with this requirement shall be provided prior to the acceptance of the applicant's petition by the Clerk of the Council.

- (2) The Clerk of the Council shall refer copies of the request and accompanying documents to the Planning Board and to the People's Zoning Counsel. The Planning Board and the People's Zoning Counsel shall submit any comments which they have on the request to the Council, the Zoning Hearing Examiner, the petitioner, and all persons of record in the original Zoning Map Amendment application. The comments shall be submitted not later than sixty (60) days after the date the Clerk refers the petition to them, unless such deadline is waived in writing by the applicant.
- (3) Within one hundred twenty (120) days after referral of the petition to the Planning Board and People's Zoning Counsel, the Zoning Hearing Examiner shall conduct a public hearing on the petition. The hearing shall be held in accordance with Section 27-129. The hearing shall not be held until after the sixty (60) day review period has expired, unless both the Planning Board and People's Zoning Counsel have submitted their comments.
- (4) Within thirty (30) days from the close of the hearing record, the Zoning Hearing Examiner shall file a written recommendation with the District Council, unless such deadline is waived in writing by the applicant.
- (5) Any person of record may appeal the recommendation of the Zoning Hearing Examiner within fifteen (15) days of the filing of the Zoning Hearing Examiner's recommendation with the District Council. If appealed, all persons of record may testify before the District Council.
- (6) Persons arguing shall adhere to the District Council's Rules of Procedure, and argument shall be limited to thirty (30) minutes for each side, and to the record of the hearing.
- (7) In approving the petition, the District Council shall find that the requirements of Section 27-195(b) have been met. If the Council does not act within forty-five (45) days of the filing of the written recommendation, the petition shall be considered to have been denied.

(2) As noted above, the request must also satisfy the following provisions set forth in Section 27-195 (b) of the Zoning Ordinance:

Sec. 27-195. Map Amendment approval.

(b) Criteria for approval.

- (1) Prior to the approval of the application and the Basic Plan, the applicant shall demonstrate, to the satisfaction of the District Council, that the entire development meets the following criteria:
 - (A) The proposed Basic Plan shall either conform to:
 - (i) The specific recommendation of a General Map plan, Area Master Plan map, or urban renewal plan map; or the principles and guidelines of the plan text which address the design and physical development of the property, the public facilities necessary to serve the proposed development, and the impact which the development may have on the environment and surrounding properties;

- (ii) The principles and guidelines described in the Plan (including the text) with respect to land use, the number of dwelling units, intensity of nonresidential buildings, and the location of land uses; or
 - (iii) The regulations applicable to land zoned R-S and developed with uses permitted in the E-I-A Zone as authorized pursuant to Section 27-515(b) of this Code.
- (B) The economic analysis submitted for a proposed retail commercial area adequately justifies an area of the size and scope shown on the Basic Plan;
- (C) Transportation facilities (including streets and public transit) (i) which are existing, (ii) which are under construction, or (iii) for which one hundred percent (100%) of the construction funds are allocated within the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or will be provided by the applicant, will be adequate to carry the anticipated traffic generated by the development based on the maximum proposed density. The uses proposed will not generate traffic which would lower the level of service anticipated by the land use and circulation systems shown on the approved General or Area Master Plans, or urban renewal plans;
- (D) Other existing or planned private and public facilities which are existing, under construction, or for which construction funds are contained in the first six (6) years of the adopted County Capital Improvement Program (such as schools, recreation areas, water and sewerage systems, libraries, and fire stations) will be adequate for the uses proposed;
- (E) Environmental relationships reflect compatibility between the proposed general land use types, or if identified, the specific land use types, and surrounding land uses, so as to promote the health, safety, and welfare of the present and future inhabitants of the Regional District.
- (2) Notwithstanding subparagraphs (C) and (D), above, where the application anticipates a construction schedule of more than six (6) years (Section 27-179), public facilities (existing or scheduled for construction within the first six (6) years) will be adequate to serve the development proposed to occur within the first six (6) years. The Council shall also find that public facilities probably will be adequately supplied for the remainder of the project. In considering the probability of future public facilities construction, the Council may consider such things as existing plans for construction, budgetary constraints on providing public facilities, the public interest and public need for the particular development, the relationship of the development to public transportation, or any other matter that indicates that public or private funds will likely be expended for the necessary facilities.
- (3) In the case of an L-A-C Zone, the applicant shall demonstrate to the satisfaction of the District Council that any commercial development proposed to serve a specific community, village, or neighborhood is either:
- (A) Consistent with the General Plan, an Area Master Plan, or a public urban renewal plan; or
 - (B) No larger than needed to serve existing and proposed residential development within the community, village, or neighborhood.
- (4) In the case of a V-M or V-L Zone, the applicant shall demonstrate to the satisfaction of the District Council that the commercial development proposed to serve the village is no larger than needed to serve existing and proposed residential development within and immediately surrounding the village, within the parameters of Section 27-514.03(d)(1)(A).

CONCLUSIONS OF LAW

(1) This request is to revise two prior conditions imposed by the District Council in its approval of the Basic Plan. Both conditions concern the location of a master plan trail on the property and the fee in lieu that Applicant will provide for its construction. The Technical Staff noted that the request will not change the original finding that the Basic Plan conforms to the Environmental Infrastructure Section of the 2013 Subregion 6 Master Plan and Sectional Map Amendment since the relocation will fund trail construction that can connect to other planned or existing portions of the Collington Branch Trail on the east side of the property and eliminate construction on the Western Branch Trail which has more environmental constraints. (Section 27-195 (b)(1)(A))

(2) Applicant is not proposing any retail commercial areas, so there is no need for review of an economic analysis. (Section 27-195 (b)(1)(B))

(3) The revisions to the trail will not impact transportation facilities, police/fire and rescue/water and sewer facilities, master plan trail facilities (since a trail will be provided, and at a better location) or other existing or planned private/public facilities. (Sections 27-195 (b)(1)(C) and (D))

(4) The relocation of the trail will better preserve the environmentally sensitive area of the Western Branch and, therefore, promotes the health, safety, and welfare of the present and future inhabitants of the Regional District. (Section 27-195(b)(1)(E)) Applicant has an approved preliminary plan of subdivision and final plats of subdivision (PPS 4-03071 and 5-08008 through 5-08023)) and a specific design plan (SDP-0414) that may require revisions if the instant request is approved. The District Council can find that public facilities will be adequate to serve the site since: the minimal changes requested do not impact any public facilities other than the master plan trail facilities (and that impact is positive); the number of homes to be constructed is significantly less than that approved in 1994 (thereby lessening any impact upon the other public facilities); and, further review of adequacy will be required when the approvals noted above are revised to change Conditions 15 and 16 (if this request is approved). (Section 27-195(b)(2))

(5) The subject property does not lie within the L-A-C, V-M or V-L Zones. (Sections 27-195(b)(3) and (4))

(6) I believe the revised conditions will ensure the construction of a useful trail that is more protective of the environmentally sensitive areas around the subject property. I recommend two further technical revisions to change the grammatical reference to the

Applicant in Condition 15 and to require that any trail be constructed in accordance with DPR's guidelines (language that was included in the District Council's original approval).

RECOMMENDATION

I recommend approval of A-9895-C-01 with the following land use types, quantities, relationships, conditions and consideration 1:

I. Land Use Types and Quantities:

153 single-family detached dwelling units Open space

Homeowner Recreation Facilities Trails

Base Density 1.00 du/acre 150 dus

Density Requested	1.02 du/acre	153 dus
Density Increment		

Factor Needed	2 percent	3 additional
dwelling units		

Maximum Density	1.02 du/acre	153 dus
-----------------	--------------	---------

II. Conditions:

1. Prior to the issuance of any building permits on the subject property, the widening of MD 202 to a four-lane divided highway from south of MD 193 to White House Road (as shown in the Secondary Development and Evaluation Program of the proposed FY 1994-99 Consolidated Transportation Program), shall be in place, under construction, or programmed with 100% construction funding in the next five years in the current Maryland Department of Transportation Consolidated

1 The only changes from the District Council's previous approval are to Conditions 15 and 16, and a spelling change in Section 1. Some of the underlining in these Condition were embedded in the initial approval. I apologize for my inability to remove them.

- ~~Transportation Program or the Prince George's County Capital Improvement Program; or, in the event that a fair share contribution~~ is made by the applicant and/or the applicant's heirs, successors, or assigns, 100% of the remaining construction funds will be committed in writing by the SHA, the DPW&T, or both agencies.
2. Access to the E-6 facility from the subject property shall be limited to a single location at or near the applicant's proposed south site entrance, as shown on the Basic Plan.
 3. At the time of Comprehensive Design Plan submission, the applicant and/or the applicant's heirs, successors, or assigns shall show a stub connection to the property immediately to the south (Robert L. Wurtz and Weeks Company, Liber 4620, Folio 929 on Tax Map 92, Grid F-3).
 4. Only two lots shall be permitted in the area between existing and proposed MD 202. These lots shall be located in the southernmost area of this land.
 5. The area marked "B" just south of the Thorn Hills subdivision in the northwest corner of the site, and the area marked "A" in the southeast corner of the site, east of the preservation zone, shall be reserved for lots with an approximate area of 40,000 square feet.
 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.

7. The Basic Plan shall be revised to show the "building area envelopes" coincident with or outside the Preservation Zone, to the greatest extent possible.
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.
9. A Stormwater Management Concept Plan shall be approved prior to the approval of the Comprehensive Design Plan.
10. As part of the submittal of the Comprehensive Design Plan, the applicant shall include a conceptual layout of water and sewerage service to and within the site and an analysis of the impact of the construction of these facilities. The applicant shall minimize the impact of construction.
11. The applicant shall obtain approval of the 100-year floodplain elevations from the Department of Environmental Resources, prior to preliminary plat approval.
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.

13. The applicant shall dedicate 105 acres to the M-NCPPC as shown on Exhibit B (in file).

14. Land to be dedicated shall be subject to Conditions 1 through 7 of Exhibit C (in file).

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.

17. The "A" development pod east of realigned MD 202 and south of the proposed access road shall not include

any land in the Preservation Zone. The area west of the Preservation Zone and east of realigned MD 202 shall not be included in any development pod (see area marked "1" on Staff Exhibit A). The area currently shown east of the Preservation Zone, just south of the proposed access road and just west of development Pod "C" may be incorporated into Pod "C" (see area marked "2"). South of Pod "C", the western boundary of development Pod "A" shall be the eastern boundary of the Preservation Zone (see area marked "3".)

18. On the west side of MD 202, Pod "B" in the southwest portion of the property shall be eliminated. Pod "C" may be expanded to include the area of Pod "B" that is outside the Preservation Zone (see area marked "4" on Staff Exhibit "A").

III. Consideration: _____

1. The internal road in area "C" west of MD 202 shall be located at the edge of the development pod to create a view into the preservation area.