

Case No. SP-03033/01

Applicant: Lake Marlton Ltd. Partnership

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION, WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 09-77, to approve with conditions a detailed site plan for 304 single-family attached residential units, or townhouses, for a project referred to as East Marlton, Sections 18, 21, and 22, on property described as approximately 89.69 acres of land in the R-T/R-P-C zones, on both sides of proposed East Marlton Avenue, an extension of Heathermore Boulevard, one-half mile northwest of the intersection of Croom Road and Croom Station Road, Upper Marlboro, is:

AFFIRMED, for the reasons stated by the Planning Board, whose decision is hereby adopted as the findings of fact and conclusions of law of the District Council in this case.

Affirmance of the Planning Board's decision is subject to the following conditions:

1. Prior to issuance of any building permits of Section 21 and 22, evidence of fulfillment of the following shall be submitted:
  - a. The applicant shall rough grade a minimum of two acres and deed to an entity designated by the Citizens Association of Marlton, a youth center site of approximately 3.3 acres.
  - b. The applicant shall develop in West Marlton the two park/school sites according to plans submitted to the Citizens Association of Marlton and dependent on approval by the appropriate county agencies. Sites are located off Grandhaven and Trumps Hill Road.
2. Prior to approval of each permit, plans shall be revised to provide the following information:

- a. A brick front tracking chart shall be provided and updated prior to approval of each permit.
  - b. Provide the number of stories, building height, dimensions of all options for each lot.
  - c. Provide the green area for each lot.
  - d. Provide the dimensions and material for the driveways, and label all garages as a one-car or two-car garage and provided the dimensions of each.
3. Prior to signature approval of the plans, the following changes or information shall be submitted:
- a. The plans shall be revised to show the 50-foot building restriction line as measured from East Marlton Avenue.
  - b. The plans shall be revised to demonstrate conformance to Section 4.7 of the *Prince George's County Landscape Manual*.
  - c. Rear yards oriented toward East Marlton Avenue shall be buffered in accordance with Section 4.6 of the Landscape Manual and an easement or covenant shall be provided.
  - d. On the architectural elevations of all endwalls, labels shall be provided showing the location of brick. A note shall be placed on all endwall elevations stating that "Full brick façade is required on all endwalls."
  - e. The following note shall be placed on all architectural elevations: "On all units with full or partial brick front elevation, the offset wall connecting to a unit set further back shall feature full or partial brick to match the front."
  - f. The following lots shall be labeled as "high visibility" lots on the site plan:
    - Section 18: Lots 1, 13, 35, 36, 64, 85, 98, 132, 133, 139, 140, 146, 147, 154, 160.
    - Section 21: Lots 8 and 13.
    - Section 22: Lots 1, 68, 73, 74, 78, 79, 88.

"On high visibility lots, all endwall features are standard."
  - g. Shutters shall be provided adjacent to the rear windows (where space permits) on the following groups of units:
    - Section 18: Lots 1-35
    - Section 22: Lots 1-5

4. Prior to the issuance of any grading permits, a Phase IB (Identification) archeological investigation shall be completed, and evidence of M-NCPPC staff concurrence with the investigations and/or report shall be provided.
  - a. If it is determined that archeological resources exist, then the applicant shall provide a plan for:
    - (1) Evaluating the resource at the Phase II level, and, if necessary,
    - (2) Conducting Phase III investigations by avoiding and preserving the resource in place, or mitigating through Phase III recovery.
  - b. As part of the Phase IB investigation, the area on the subject property that is adjacent to the Claggett family cemetery shall be tested using shovel test excavations and probes to identify any possible burial remains that are outside the existing cemetery boundaries.
  - c. The investigation shall follow the standards and guidelines in *Maryland Historical Trust's Standard and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994). Archeological excavations shall be clearly identified on a map to be submitted as part of the report. The report shall follow report and editorial standards in *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), and the American Antiquity or Society for Historical Archaeology style guide, and cite whether a submittal is a Draft Report or Final Report on the cover and inside cover page of the document, along with the relevant development case numbers.
5. Prior to signature approval, plans shall be revised to clearly label the Claggett family cemetery. Prior to any construction, the applicant shall place temporary fencing to mark the limits of the family cemetery to avoid disturbance during construction.
6. Prior to signature approval of the TCP II, the applicant shall revise the tree conservation plan to show the conceptual boundary of the 100-acre park. The plan shall include a conceptual layout of trail access roads and parking lots on dedicated parkland prior to approval of the TCP II/143/03. The plans shall be amended to remove the tree conservation on dedicated parkland except the 18 acres as previously agreed upon.
7. Detailed construction drawings for the 18-acre lake, trails, parking lots and access roads in the 100-acre dedicated park (including a grading plan, limits of disturbance, lake construction details, trail sections and details) shall be submitted to DPR for review and approval prior to approval of the 600<sup>th</sup> building permit in East Marlton.
8. Detailed construction drawings for Grandhaven Avenue Park (Brandywine Country Neighborhood Park) shall be submitted to DPR for review and approval prior to signature approval for any detailed site plan in East Marlton.

9. Prior to certificate approval of the Detailed Site Plans DSP-03035/01 and DSP-03033/01 whichever comes first, the recreational facilities agreement (RFA) recorded in Liber 8036, Folio 460 shall be amended to include an additional segment of the trail which will create a loop around the 18-acre lake, address the expansion of the parking lots to accommodate 15 additional parking spaces on each of the two lots. If for any reason, the applicant, his heirs, successors and/or assignees, are unable to obtain the permits for the construction of the 18-acre lake, the applicant, his heirs, successors and/or assignees, shall work with the Department of Parks and Recreation to renegotiate the recreation facilities package for the 100-acre linear park in order to provide appropriate replacement facilities. The revised recreational package shall be presented to the Planning Board for their approval.
10. The existing “Agreement to Amend Public Recreational Facilities Agreement” signed in October 8, 1996 by the Commission and Developer (Lake Marlton Limited Partnership), shall be recorded in Prince George’s County Land Records prior to signature approval of Detailed Site Plans DSP-03033/01 and DSP-03035/01.
11. Prior to signature approval, the applicant shall submit evidence that the Department of Public Works and Transportation (DPW&T) has reviewed and approved the following proposals as shown on the detailed site plan:
  - a. The extension of Heathermore Boulevard over the Popes Creek Railroad tracks.
  - b. The configuration with the use of a public street to directly serve townhouses. If the DPW&T does not agree with the proposal to line the public street with townhouses as shown on the plan, the units shall be eliminated.
12. The impacts resulting from the grading and construction of Ponds 1, 5, and 6 to the primary management area (PMA) shall be in conformance with impacts approved at the time of preliminary plan approval.
13. Prior to certificate approval of the DSP, clear written documentation of the amount of woodland conservation, which is acceptable to the Department of Parks and Recreation on the future park dedication, shall be submitted.
14. Prior to certificate approval of the detailed site plan, revise the DSP and TCP II as follows:
  - a. Clearly delineate and label the proposed stormwater management ponds (Ponds 1, 5, and 6).
  - b. Clearly label any parcel or site proposed to be dedicated to the Department of Parks and Recreation.

- c. Delineate the Patuxent River PMA on sheets 12, 13, and 14 (TCP) to include all perennial streams and a minimum of 50 feet of preserved or established vegetation on the side of each bank; the 100-year floodplain; all wetlands adjacent to the perennial stream or the 100-year floodplain; all areas having slopes of 25 percent or greater abutting or adjoining the perennial stream, the 100-year floodplain or stream-site wetlands; all areas having highly erodible soils on slopes of 15 percent or greater abutting the perennial stream, the 100-year floodplain or streamside wetlands; and specific areas of rare or sensitive wildlife habitat as determined by the Planning Board.
  - d. The 100-year floodplain shall be delineated on the plans and clearly labeled.
  - e. Minimize impacts, to the extent possible, to the Patuxent River PMA resulting from the extension of Logging Trail Way from Section 18 to Section 19.
  - f. Use the term “PMA” on sheets 12, 13, and 14 (TCP) and eliminate the use of other terms.
- 15. Prior to certificate approval of the detailed site plan, the Department of Parks and Recreation shall review the design and location of all stormdrain outfalls, stormwater management facilities, and/or utility easements to ensure that they have been designed to minimize impacts to the delineated Patuxent River PMA and sensitive environmental areas on lands to be conveyed to, or now owned by, M-NCPPC.
  - 16. Prior to certificate approval of any revision to the TCP II that proposes woodland conservation on lands owned by or to be conveyed to M-NCPPC, written approval from the Department of Parks and Recreation shall be submitted.
  - 17. Prior to certificate approval of the TCP II or final plat, whichever precedes, an approved floodplain study for the existing 100-year floodplain shall be submitted.
  - 18. At the time of final plat, conservation easements shall be described by bearings and distances. The conservation easements shall contain the delineated Patuxent River PMA except for the areas of approved impacts. The following note shall be placed on the plat:
 

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
  - 19. Prior to certificate approval of the DSP, the TCP II shall be revised as follows:
    - a. Use a single, multizone umbrella woodland conservation worksheet that covers the entire area of the TCP II, now or as revised in the future.

- b. Provide corrected quantities where necessary to determine the woodland conservation requirements.
- 20. Prior to certificate approval of the detailed site plan, revise the TCP II as follows:
  - a. Remove the soil boundaries and soil labels from the plan.
  - b. Add the TCP II number to all approval certificates on the plans.
  - c. On sheet 34 of 65, show the location of the specimen tree, delineate its critical root zone, and identify any specialized management requirements if the root zone is impacted.
  - d. Add the appropriate Environmental Planning Section edge management notes related to the preservation of trees to the plan.
  - e. Remove all woodland preservation areas from the limits of the proposed 100-year floodplain.
  - f. Correct the delineation of the “stream valley buffer” (SVB) on the plans to “stream buffer” (SB).
  - g. Have the revised plans signed and dated by the qualified professional who prepared it.
- 21. Prior to certificate approval of the DSP and TCP II, the limits of disturbance shown on the two plans shall be the same.
- 22. Prior to certificate approval of the detailed site plans, TCP II sheets that are not part of Section 18 through 22 shall be revised to add the following note:
 

“The delineation of the 100-year floodplain, nontidal wetlands, and Patuxent River primary management area (PMA) shown on this plan sheet is not be based on a Detailed Forest Stand Delineation for the remainder of TCP II/143/03, which is required to be submitted with the first new preliminary plan application occurring within the limits of TCP II/143/03(East Marlton).”
- 23. Prior to the issuance of grading permits for the construction of East Marlton Boulevard, a protection area defined by tree protection devices shall be shown on the TCP II around the cemetery location on the Board of Education (BOE) property if grading is proposed within 100 feet of the surveyed limits of the cemetery.
- 24. Prior to the issuance of grading permits for Heathermore Boulevard Extended, off-site woodland impacts shall be addressed through the revision of TCP IIs or the issuance of letters of exemption for all affected properties. All off-site properties affected shall be

clearly labeled as to ownership, parcel identification, detailed site plan case number, preliminary plan case number, and/or TCP I/TCP II number if applicable.

25. Prior to the issuance of a grading permit, copies of the approved sediment and erosion control plans and the proposed technical stormwater management plans shall be submitted.
26. Prior to the issuance of any grading permits for Section 21 of East Marlton, which propose disturbance within 150 linear feet of the location of the known population of single-headed pussytoes located on the east bank of Southwest Branch adjacent to Lots 1, 2, 3, and 4, the detailed site plan and tree conservation plan shall be revised to provide a 100-foot-wide undisturbed buffer to the population. The relocation of lots to provide this buffer is acceptable so long as there is no net increase in the area of PMA impacts.
27. Revise the detailed site plan and TCP II to show a treatment appropriate to their intended purpose for the 35-foot-wide landscape buffer and the 50-foot-wide noise buffer along the frontage of Section 18, adjacent to East Marlton Avenue.
28. At the time of final plat, the 35-foot-wide landscape buffer and 50-foot-wide noise buffer along the frontage of Section 18, adjacent to East Marlton Avenue, shall be shown on the plat. The following notes shall be placed on the record plat:
 

“The landscape buffer shown on this plat is an area of landscaping adjacent to a collector road in accordance with the requirements of the Prince George’s County *Landscape Manual* as shown on Detailed Site Plan DSP-03033 or as revised in the future.”

“The noise buffer shown on this plat is an area designated to provide a separation between the collector road and residential uses where no residential structures can be placed.”
29. Prior to certificate approval of the DSP, revise the detailed site plan and TCP II to delineate a 35-foot-wide buffer along the frontage of Section 22, adjacent to East Marlton Avenue, and show an appropriate landscape treatment adjacent to a collector road based on the Prince George’s County Landscape Manual.
30. Prior to certificate approval of the DSP, revise the detailed site plan and TCP II to delineate a 40-foot-wide buffer between Section 22 and the adjacent Board of Education site and show an appropriate bufferyard treatment between adjacent uses based on the Prince George’s County Landscape Manual.
31. At time of final plat for Section 22, the 35-foot-wide buffer adjacent to East Marlton Avenue and the 40-foot-wide buffer adjacent to the Board of Education property shall be delineated. The following notes shall be placed on the record plat:

“The buffers shown on this plat are areas of landscaping adjacent to a collector road and/or adjacent uses in accordance with the requirements of the Prince George’s County Landscape Manual and as shown on Detailed Site Plan DSP-03033, or as revised in the future.”

32. Prior to signature approval of the TCP II, the applicant shall revise the tree conservation plan to show the conceptual boundary of the 100-acre park. The plans shall include a conceptual layout of the 18-acre lake, trail access roads, and parking lots on dedicated parkland prior to approval of Type II Tree Conservation Plan TCP II/143/03-01. The plans shall be amended to remove the tree conservation on dedicated parkland except the 18 acres as previously agreed upon.
33. Prior to signature approval of the plans, the following shall be demonstrated and the TCP II shall be revised as follows:
  - a. All primary management area (PMA) impact areas that occur in areas off lots, but not within utility easements shall at a minimum, be reforested to Prince George’s County standards. Where reforestation areas are adjacent to proposed lots, reforestation shall consist of minimum per acre mix of eighty-two two-inch caliper trees and 165 one-inch caliper trees and three hundred thirty protected seedlings. All reforestation areas in the vicinity of residential units shall be provided permanent fencing using an attractive fencing material such as two-rail split rail fencing or equivalent.
  - b. For areas within proposed utility easements, reforestation shall at a minimum, consist of protected seedlings as allowed by the governing agency and shall not be credited as woodland conservation.
  - c. The stream crossing into Section 21 from Heathermore Boulevard shall utilize a bottomless culvert to minimize impacts to the stream. The detailed site plan and TCP II shall show this feature, and the DSP shall show a detail of the culvert. The off-road trail described in “d” below, shall go up and over the culvert, rather than under the culvert, if feasible.
  - d. The site plan shall be revised to reflect an off-road trail connecting one section to another to reflect the trail system envisioned by the Marlton Official Plan. The trail shall provide a connection to the 100-acre park through Section 22, if possible. Alignment to trails shall be determined by M-NCPPC staff.
  - e. Developer shall incorporate a hiker/biker trail adjacent to or within the Heathermore Boulevard and East Marlton Avenue roadway right-of-way with both a minimum width and separation from the roadway of six feet.
34. Prior to certificate approval of Detailed Site Plan DSP-03033/01, the TCP II and the landscape plan shall be revised to provide plant material to reforest the slopes of Heathermore Boulevard and to reforest the slopes designed to incorporate the off-road



trail system within the limits of disturbance to Prince George's County standards (woodland conservation stocking requirements) using indigenous plantings. Plantings shall consist of a minimum per acre mix of eighty-two two-inch caliper trees, one hundred sixty-five one-inch caliper trees, and three hundred thirty protected seedlings, subject to review by M-NCPPC staff and/or county staff as applicable. The reforestation and planting shall not be considered in meeting the requirements for the tree conservation plan (TCP), but considered in addition to, not in lieu of, said requirements.

35. Per the concurrence of DPW&T, the applicant shall include a standard sidewalk along the subject application's entire frontage of the east side of East Marlton Avenue, and a six-foot-wide sidewalk on the west side.
36. Prior to construction and release of any building permits for the referenced site, approval of all construction elements related to said railroad crossing must be bonded and permitted through DPW&T. A construction and maintenance agreement will be required by DPW&T.
37. Prior to signature approval, the following lots shall be deleted from the plans:
  - Section 18: Delete lots 58, 72-76, 85, 121, and 127-129.
  - Section 21: Delete lots 9-12, 17-21, 35-44, 73-78, 54-59 and 85-88.

Ordered this 5th day of October, 2009, by the following vote:

In Favor: Council Members Bland, Campos, Dean, Dernoga, Harrison, Knotts, Olson and  
Turner

Opposed:

Abstained:

Absent: Council Member Exum

Vote: 8-0

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By: \_\_\_\_\_  
Marilynn M. Bland, Chairperson

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council