



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 13-02

File No. SDP-0608-01

## RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with approval of Specific Design Plans pursuant to Part 8, Division 4 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at public hearings on December 20, 2012 and January 10, 2013, regarding Specific Design Plan SDP-0608-01 for The Preserve at Piscataway, the Planning Board finds:

1. **Request:** The subject application is proposed to eliminate the golf course, to revise the recreational amenities, to revise the grading of the site in order to balance the earthwork on the overall property (150,000–300,000 cubic yards), and to revise the tree conservation plan to include additional acreage in tree conservation for the purpose of creating woodland conservation mitigation banks.

2. **Development Data Summary**

	EXISTING	APPROVED
Zone(s)	R-L	R-L
Use(s)	Undeveloped land reserved Golf course	Permanent Open space
Acreage	317.61*	304.90**
Lots	0	0
Parcels	4	4
Square Footage/GFA	0	0
Dwelling Units:	N/A	N/A

\*This acreage was the amount of land area that was previously approved for the golf course as shown on the SDP-0608 plans by Clark, Finefrock and Sackett, Inc.

\*\*This acreage is the amount of land area of golf course as currently shown on the SDP-0608-01 plans by Gutschick, Little and Weber, P.A.

3. **Location:** The site is located in Planning Area 84, Council District 9, north and south of Floral Park Road near and at its intersection with Danville Road.

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4. **Surroundings and Use:** The proposed golf course was designed to be located south of new Piscataway Road, with frontage on the road. The golf course was proposed to weave around the villages within the development. The golf course land area also has frontage along Danville Road.

5. **Previous Approvals:**

**On September 14, 1993**, the Prince George's County Council, sitting as the District Council, adopted County Council Resolution CR-60-1993 approving the master plan and sectional map amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A, and 85B. The sectional map amendment, in conjunction with Zoning Map Amendments A-9869 and A-9870, known as Villages at Piscataway, rezoned 858.7 acres in the R-A Zone to the R-L Zone (Residential Low Development, 1.0 to 1.5 du/acre) and 19.98 acres to the L-A-C Zone (Local Activity Center—Village Center). The basic plan was approved with 39 conditions and 11 considerations. The base residential density of the R-L Zone, in which the golf course was proposed, was approved as 818 dwelling units; the maximum residential density in the R-L Zone was approved as 1,000 dwelling units. The basic plan exhibit clearly depicted the golf course by crosshatching the area of land proposed as a golf course within the R-L Zone.

**On March 24, 1993**, Comprehensive Design Plan CDP-9306 (Villages of Piscataway) was approved by the Prince George's County Planning Board, as described in PGCPB Resolution No. 94-98(C). The comprehensive design plan (CDP) was approved with 36 conditions. The CDP included the entire 878.7 acres of land zoned R-L and L-A-C to be developed as a village community with a golf course component. The CDP approved 800 single-family detached units and 200 single-family attached units in the area of the subject application. The text of the CDP included a phasing schedule for the development of the golf course that required the golf course to be completed prior to issuance of the 640th building permit.

**On June 23, 1994**, the Planning Board reviewed and approved a Master Preliminary Plan of Subdivision (4-94017), Villages at Piscataway, for the entire acreage of the site, as described in PGCPB Resolution No. 94-213. The master preliminary plan was approved with 20 conditions. A revision to the Type I Tree Conservation Plan (TCPI/009/94-01) was also approved, dated June 14, 1994. That preliminary plan has since expired.

**On June 17, 2003**, the Planning Board approved Preliminary Plan of Subdivision 4-03027, The Preserve, which includes the area that is the subject of this application. Variation requests for impacts to sensitive environmental features and a revised Type I Tree Conservation Plan, TCPI/009/94-02, were included in that approval.

**On September 9, 2004**, the Planning Board reviewed Specific Design Plan SDP-0401 for Lusby Villages, East and West. At that hearing, the applicant argued against the following staff recommended condition of the approval:

25. **Prior to the issuance of the 640<sup>th</sup> building permit for the entire project, one of the following shall be accomplished:**

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- a. **The golf course shall be fully constructed and open for use.**
- b. **The Basic Plan shall be amended to delete the golf course and eliminate all conditions relating to the golf course.**
- c. **Revise the Comprehensive Design Plan to modify the timing of the completion of the golf course.**

The Planning Board considered the applicant's request to eliminate the condition and advised the applicant that, because the requirement is contained within the text of the CDP, it would be necessary for the applicant to seek a reconsideration of the CDP for the purpose of revising the timing of the construction of the golf course.

**On September 14, 2004**, the applicant submitted a request to waive the rules of procedure and to request reconsideration of the case, and the Planning Board granted the request to waive the rules of procedure and granted the request for reconsideration.

**On November 18, 2004**, the Planning Board approved a request for reconsideration of the timing of the requirement for the development of the golf course, to allow the timing threshold to change from the 640th building permit to the 818th building permit. The Planning Board also included an additional condition to be added to the previous conditions of approval as follows:

37. **Prior to the issuance of the 818th residential building permit for the entire project, and prior to the issuance of any commercial building permits within Bailey's Village, one of the following shall occur:**
  - a. **The golf course shall be fully constructed and open for use.**
  - b. ***The Basic Plan shall be amended to delete the golf course and eliminate all conditions relating to the golf course. (emphasis added)***

A revision to the Basic Plan, as stated above, was never filed.

**On July 19, 2007**, the Planning Board approved Specific Design Plan SDP-0608 for the golf course. Other Specific Design Plans have been approved for all of the five villages within the development including Bailey's Village (105 single-family and 34 multifamily units), Glassford Village (200 single-family units), Edelen Village (256 single-family), Lusby Village (265 single-family), and Danville Village (126 single-family), for a total of 986 dwelling units approved for the overall property.

**Permits**—The Maryland-National Capital Park and Planning Commission (M-NCPPC) permit tracking log indicates that the first grading permit for Glassford Village was released in September of 2002 and the first building permits for the site were issued approximately one year later in 2003.

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The number of building permits reviewed for the project is 476 units, located within Glassford Village South, Edelen Village North and South, Lusby Village West, and Bailey's Village. No building permits have been received for homes within Glassford Village North, Lusby Village East, or Danville Village.

6. **Design Features:** The plan proposes to eliminate the proposed golf course and to revise the recreational facilities proposed for the development. The plan delineates the location of added trails provided within the area of land previously proposed as the golf course. The plans also include an exhibit that demonstrates the intention of the applicant to submit revised SDPs in the future for the plans for the recreational areas. The proposal is to add trails, replace the previously approved half basketball court with a pavilion, and to add a golf putting range. The plans were also revised to indicate an additional outdoor play area that will serve as a play field measuring approximately 200 feet by 300 feet in size.

This specific design plan covers approximately 305 acres of the site as the area of the golf course. The plan shows proposed grading in order to distribute excess fill throughout the area of the golf course where trees did not exist on the site, as shown on the natural resources inventory (NRI) analysis. However, it should be noted that, since the NRI analysis was done, some natural regeneration of the area has occurred. The grading proposes naturalistic berms in certain areas of the golf course. This will impact existing views into the open space from the homes that back up to the golf course land and views into the open space from adjoining roadways. The grading is proposed in order to balance earthwork for the overall site, increasing the height of the topography in certain areas. Once the grading is complete, the tree conservation plan indicates that the graded areas are proposed to be seeded with a woodland mix consisting of native trees. These seeds will create areas of natural regeneration that will ultimately become woodland.

The proposed revisions to the Type II tree conservation plan (TCPII) expand the land area to be covered in woodland to include an additional 98 acres of tree conservation as a woodland mitigation bank. A woodland mitigation bank is proposed by the developer as a mitigation area for the development of other properties in the county where removal of woodland cannot be accommodated.

Finally, the proposed plan indicates that the applicant intends to convey the land area of the golf course to the homeowners association.

7. **On November 17, 2009**, the District Council approved County Council Bill CB-57-2009 that allows a golf course within the R-L Zone to be eliminated if certain conditions are fulfilled.

#### **Section 27-514.10, Regulations, of the Zoning Ordinance**

(d) **Other regulations.**

- (4) **Recreational development consisting of an eighteen (18) hole golf course, within an open space public benefit feature, may be**

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**eliminated provided the recreational development is not needed to sustain a density increment granted by the applicable Comprehensive Design Plan initially approved prior to 1996. A Specific Design Plan hearing is required prior to issuance of fifty percent (50%) of the permits for the development, demonstrating to the satisfaction of the Planning Board or the District Council that (1) any required tennis court, teen court, swimming center or other recreational facilities will be completed and open prior to the issuance of any residential permit exceeding fifty percent (50%) of the density approved on the Comprehensive Design Plan; (2) that proper and final preservation, design and access to the former golf course land as permanent open space is approved as part of the Specific Design review; and (3) it is determined whether or not other recreation facilities in lieu of the golf course are necessary to provide the homeowners with a well-balanced program of recreational facilities.**

The applicant has provided the following analysis to justify their proposal to eliminate the golf course in a justification statement dated July 16, 2012, revised September 25, 2012 and again November 29, 2012, prepared by Kevin Foster, ASLA, AICP Gutschick, Little, and Weber:

“During the past few years, it has become more difficult to sustain and/or move forward with some golf course construction at existing and proposed venues in the County and throughout the Region. At least four courses, three within existing or developing communities have shut down over the past six years and other existing venues are having difficulty. Additionally, the new housing construction and sales decline, along with an increase of foreclosed homes to the marketplace, has slowed anticipated growth at the Preserve. While Preserve residents alone would not have been able to sustain a private or public golf course, the slowdown in housing construction within the community highlighted the difficulty of moving forward with an amenity for which there would be inadequate consumers.”

The applicant is correct that there are a number of failed golf courses in the county. Ted Kowaluk, Senior Planner, Special Projects Section, Countywide Planning Division (M-NCPPC) provided the following information:

“According to the National Golf Foundation (NGF) the current environment for golf courses in the U.S. is at the lowest performance level since the 1930’s. The two main factors that have negatively affected the industry include 1) an oversupply of golf courses from a construction boom of new courses tied mainly to residential developments during the 1990’s and continuing into the early 2000’s, and 2) the decline in active golfers and in the number of rounds that active golfers play. From 1990-2011 while the number of courses rose 15 percent the total number of rounds declined seven percent, rounds played per 18 holes declined 20 percent, and the number of active golfers declined by two

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percent. During the 1990's the country added over 400 golf courses per year which eventually created a severe over supply in the market. The market now appears to be self-correcting and for the past 6 years, more golf courses have closed than have opened. As an example, according to the NGF in 2011 only 19 new golf courses opened while 146 courses closed.

"Like the nation as a whole the golf industry in the county has also experienced some difficulties. Our Parks and Recreation Department reports that two of their public courses Henson Creek and Paint Branch operate at a loss and rounds at Enterprise have declined significantly from 50,000 per year in the 1990's to today when they are struggling for 40,000 rounds per year. A number of courses have also recently closed in the county. Both Marlborough Country Club and Lake Arbor Country Club closed at the beginning of 2010 and where foreclosed upon in April 2011. The Robin Dale Country Club in Brandywine was put up for sale in 2003 and was closed and purchased in 2006 by a sand and gravel interest.

"In general the projected forecast for the golf industry is not favorable.

"Most industry experts do not see any type of turn-around for at least five years until the excess supply in courses is removed. There is even a significant amount of concern that active golfers will continue to decline as the baby boomer population continues to age and the interest in golf among younger generations is not as strong."

The research above indicates a low market value for golf courses both nationwide and within Prince George's County. Accordingly, the industry is predicting no turn-around to this trend for at least five years. The applicant is not required to complete the golf course until prior to the 818<sup>th</sup> building permit per CDP Condition 37. Based on the number of building permits currently reviewed (476), the applicant has 342 building permits left before the completion of the golf course is required. A low rate of absorption of housing units could result in five more years of building within the community without reaching the threshold, depending on the housing market. On the other hand, the total number of building permits for the project is 986. If the applicant's proposal to eliminate the golf course were denied, it is possible that the remaining building permits (151 permits which includes approximately 34 multifamily units), would not be sufficient incentive to ensure the building of the golf course, resulting in a low probability of the golf course ever being built.

#### 8. **Section 27-514.10(d) Other Regulations**

The following is a discussion of each requirement of the legislation.

- (4) Recreational development consisting of an eighteen (18) hole golf course, within an open space public benefit feature, may be eliminated provided the recreational development is not needed to sustain a density increment**

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**granted by the applicable Comprehensive Design Plan initially approved prior to 1996...**

The comprehensive design plan was initially approved by the Planning Board in 1993, qualifying this case to apply for the elimination of the golf course. A review of the density increments for the project indicates that the base density of the R-L Zone for this project is 818 dwelling units. The following is taken from the certified approved CDP for the project:

**PUBLIC BENEFITS AND DENSITY DETERMINATIONS IN THE R-L ZONE**

**The R-L Zone in Section 27-514.10 of the Prince George's County Zoning Ordinance lists several public benefit features that apply to R-L portion of The Villages at Piscataway. These benefit features include:**

**Criteria No. 1. Up to a 25% increase in allowable dwelling units over the base residential density of one unit per acre may be granted "For open space land at a ratio of at least 3.5 acres per 100 dwelling units (with a minimum size of 1 acre.)"** The R-L portion of the Villages at Piscataway meets this criteria by providing over one-half of its acreage in open space.

**Criteria No. 2. Up to a 2.5% increase in allowable dwelling units over the base residential density of one unit per acre may be granted for enhancing existing physical features (such as breakfront treatment of waterways, sodding of slopes susceptible to erosion action, thinning and grubbing of growth, and the like. The R-L portion of the Villages at Piscataway meets this criteria by the major environmental enhancements that will be made a part of the golf course design and environmental treatments of other environmental areas.**

**Criteria No. 3. Up to a 5% increase in allowable dwelling units over the base residential density of one unit per acre may be granted "For a pedestrian system separated from vehicular rights-of-way." The R-L portion of the Villages at Piscataway meets this criteria by providing a trail system that along with the major sidewalk system will link all sections of the community to the L-A-C and to park land.**

**Criteria No. 4. Up to a 10% increase in allowable dwelling units over the base residential density of one unit per acre may be granted "For recreational development of open space (including minimum improvements of heavy grading, seeding, mulching, utilities, off-street parking, walkways, landscaping, and playground equipment.)" The R-L portion of the Villages at Piscataway meets this criteria through the provision of a championship golf course, a swim center, a tennis complex and other recreational facilities over and above park dedication requirements.**

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**Criteria No. 6.** Up to a 10% increase in allowable dwelling units over the base residential density of one unit per acre may be granted "For creating activity centers with space provided for quasi-public services (such as churches, day care centers for children, community meeting rooms, and the like.)" The R-L portion of the Villages at Piscataway meets this criteria by providing a community building that will contain a meeting room for civic activities.

Table 4 sets forth the amenities and appropriate density increment factors that would be appropriate in the R-L portion of the site. The base residential density for the R-L area is 818 dwelling units. The plan proposes 1000 dwelling units in the R-L area and the extra 182 dwelling units are to be earned through density increment factors. Table 4 explains how such density increment factors are obtained.

#### R-L Zone Density Calculations/Public Benefit Features

Total Acreage: 818.8 acres (including 50% of 100-year floodplain)				
<u>Density</u>		<u>Residential R-L 1.0</u>	<u>Total Dwelling Units</u>	
Base		1.0 DUs/Gross Acre	818 DUs	
Maximum Allowable in R-L Zone		1.5 DUs/Gross Acre	1,228 DUs	
The Villages at Piscataway Proposal (1,000 Dwelling Units)		1.22 DUs/Gross Acre	1,000 DUs	
Density Increment Factors				
PUBLIC BENEFIT FEATURES	MAXIMUM ALLOWABLE INCREMENT FACTOR	EARNED INCREMENT FACTOR	INCREASE ALLOWED IN BASE DENSITY	INCREASE ALLOWED IN DWELLING UNITS
1. For open space land at ratio of 3.5 acres/100 DUs	25%	25%	.25 DUs/Acre	204.5
2. For enhancing existing physical features	2.5%	2.5%	.025 DUs/Acre	20.4
3. For pedestrian system separated from public right-of-way	5%	3%	.05 DUs/Acre	24.54
4. For recreational development of open space	10%	10%	.10 DUs/Acre	81.8
5. For creating activity centers with space provided for quasi-public services	10%	5%	.05 DUs/Acre	40.9
				372.14

The certified approved CDP text provides a clear explanation of the award of density increments for the project. The CDP actually provided benefit features above and beyond what was required for their projected population of 1,000 dwelling units for the development within the R-L Zone at that time. However, the density increment awards recognized that the golf course was a component of the recreational development of the open space which amounted to a total of a ten percent increase in density, or 82 dwelling units. The golf course was also a factor in the awarding of the



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density increments for the enhancement of existing physical features on the site, which amounted to 2.5 percent or 21 dwelling units for the project. If those awards were not credited, then the award of 372 less the 12.5 percent award for enhancement of the site's physical features and development of recreational facilities, or 103 units, results in 269 dwelling units awarded for other density increments. The density increment awards are related to the amount of open space provided the pedestrian system, and the meeting space within the community building. Added to the 818 unit base, that results in 1,087 dwelling units in the R-L Zone. The R-L zoned property was capped at 1,000 dwelling units, per the CDP. The L-A-C zoned property was capped at 140 dwelling units. It should be noted here that the project never achieved that density of development in its final form. The final number of units approved through the SDP's is approximately 986 dwelling units total, in both the R-L and the L-A-C Zones.

**...A Specific Design Plan hearing is required prior to issuance of fifty percent (50%) of the permits for the development, demonstrating to the satisfaction of the Planning Board or the District Council that (1) any required tennis court, teen court, swimming center or other recreational facilities will be completed and open prior to the issuance of any residential permit exceeding fifty percent (50%) of the density approved on the Comprehensive Design Plan...**

This SDP is submitted in order to demonstrate fulfillment of the requirements for elimination of the golf course. Fifty percent of the permits for the development within the R-L and L-A-C Zones would be based on the total number of dwelling units approved for the site. In the R-L Zone, the total number of units is 848. In the L-A-C Zone, the total number of units is 105 dwelling units, and a single-multifamily structure. The total number of permits is anticipated to be 986 (including 34 permits for the multifamily structure), and 50 percent of that number is 493 permits. The total number of permits reported to have been reviewed by the M-NCPPC Permit Review Section is 476.

In regard to point (1) above, the density approved at the time of the CDP was higher than that which was actually achieved for the project. The overall density approved at the time of the CDP was 1,000 dwelling units for the R-L-zoned property and 140 units for the L-A-C. Fifty percent of that total is 570 units. This threshold will be the maximum number of permits that can be released for the project until the completion of the new recreational facilities, per this revised specific design plan. Further, either the existing recreational facilities agreement (RFA) should be revised or a new agreement will be required.

**...(2) that proper and final preservation, design and access to the former golf course land as permanent open space is approved as part of the Specific Design review; and...**

The applicant has agreed that the provision of a easement requiring the former golf course land to remain as permanent open space is appropriate.

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**...(3) it is determined whether or not other recreation facilities in lieu of the golf course are necessary to provide the homeowners with a well-balanced program of recreational facilities.**

The criteria for approval require a determination of whether or not other recreational facilities in lieu of the golf course are necessary to provide the homeowners with a well-balanced program of recreational facilities. This is a highly subjective requirement, as one's perspective on recreation will vary from person to person. However, the existing required facilities for the development have been provided on an exhibit by the applicant. Some of the site features are labeled as open play areas; however, they were not the subject of a recreational facilities agreement.

The applicant has provided additional recreational facilities consisting of a trail system throughout the former golf course area, a substitution of a pavilion for a previously approved multipurpose court, a golf putting green, and an open play area. These facilities are discussed by the applicant in an analysis of the recreational facilities package in a justification statement dated July 16, 2012, revised September 25, 2012 and November 29, 2012, prepared by Kevin Foster, ASLA, AICP Gutschick, Little, and Weber:

#### **"RATIONALE FOR ADDITIONAL RECREATION FACILITIES**

##### **"Hiker/Biker Path System**

"A continuous network of approximately 11,722 linear feet of 8' wide paved trails providing safe pedestrian and bike linkages to neighborhood destinations such as the five villages, public facilities, common areas, open space and natural areas. A major portion of the path system runs through the open space areas that were to become the golf course. This open space will be deeded to the Homeowners Association. These paved trails offer both active and passive recreation for both pedestrians and bikers. The path system is laid out to maximize the recreational experience by passing by scenic view points, hills, wetland ponds, wildlife, creeks and mature woodland. The trail system also intersects at important major connecting roads and major destination points such as the community tennis courts/pavilion on the east side of Glassford Village; two points on St. Mary's View between Bailey's Village and Edelen Village North and Lusby Village and the east and west ends of Glassford Village; Medinah Ridge Road between Edelen Village North and Edelen Village South and the west side of Glassford Village. Along the trail sitting areas are provided to rest and enjoy the view. A portion of the hiker/biker trail, roughly 2,590 linear feet, is currently shown on the approved site plan in the Danville Village only. The expectation is the entire trail system (14,312 lf.) would be used by residents of all age groups.

"The golf course was not a recreational facility originally provided as part of a 'balanced program of recreational facilities' for residents. Essentially, the proposed course and its walking and cart path areas would have been 'private open space' to be enjoyed only by those paying a fee to be on the golf course. All other use is considered 'trespassing'. This is done for issues of liability on golf courses so that if an incident occurs, the individual is

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unable to claim a right of protection or liability because of the absence of a 'contractual status' (no fee paid, no permission to be on the property). Removal of the golf course results in the land becoming 'private open space' to the residents with use of its trails and other amenities. As a result of the transfer to the residents—it can only be used by the residents and those persons so authorized by the residents. While both the golf course and the open space/trails provided a 'view-shed amenity' to certain residents, the latter removes the right of the general public to enter upon the property for a fee within the hours of its opening for a variety of purposes.

"The Applicant's CSP and PPS were approved with a set of recreational facilities that were deemed adequate and which did not rely upon the golf course as credit for meeting the statutory requirements. Applicant's proposal for greater woodland retention with an active and passive trail is now a substantial addition to that recreational amenity package, and now far exceeds any statutory requirements. The addition of the putting green and open space field area are recreational amenities that can be used by a wider number of residents—and can be done without the charge of a fee. In sum, a public golf course amenity, within a residential community, that could have been enjoyed by any individuals—resident and non-resident alike for a fee—has been replaced with a set of private amenities, to be used only by the residents. Moreover, these enhancements have been added to a group of recreational amenities previously deemed adequate for this size population further allow the Planning Board to find that residents are being provided a 'well-balanced program of recreational facilities'."

The Planning Board finds that the applicant's Comprehensive Design Plan and Preliminary Plan of Subdivision approved recreational facilities, and further approved in various Specific design Plans throughout the community, as well as those proposed in this revision to SDP 0608, are adequate to provide residents of the community with a well-balanced program of recreational facilities. The applicant has however, proffered additional recreational facilities which they have discussed with existing residents of the community. These additional proffered recreational facilities, voluntarily provided by the applicant, shall be installed and open prior to the 720<sup>th</sup> building permit and the 818<sup>th</sup> building permit, respectively, as set forth in conditions 5 and 6 herein.

"Natural Areas (with no paths)

These areas are accessible from a public street or trail and are on property owned by the Homeowners Association. Typically these areas are wooded and open enough to allow pedestrians to walk or hike through them. These areas are also within the open space that was to become the golf course and would be used primarily by teens, adults, and seniors.

"Central Recreational Facility Area

Enhancements to the Clubhouse/Pool area are also being made that will provide better use of the internal space with the inclusion of audio/video equipment and a business center/meeting room. The adjacent ½ basketball/multi-purpose court, at the request of the majority of the participating residents, is being replaced. Residents concluded a picnic

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pavilion, inclusive of a grill, seating area, and additional space—all fenced off from the pool but accessible thru a gate—would be a more appropriate recreational amenity to the central area. Additionally, a small putting green will be installed adjacent to the parking area in front of the Community Recreational Facility.

“Open Play Area

A large, flat, grassy area approximately 200' x 300' is proposed for multi-purpose recreational use. The Open Plan [sic] Area is centrally located to the community with excellent pedestrian and vehicular access and a safe distance from surrounding homes. Informal, active recreation is planned such as soccer, Frisbee, ball throwing, volleyball, badminton, or any appropriate activity envisioned by the residents.

“Rationale

The original program of recreational facilities provided a diverse and balanced recreational experience for residents of all ages at the Preserve. The inventory of active and passive recreation facilities described above demonstrates the planning and effort the applicant felt was required to create a high quality development that would provide diverse housing types and multiple recreational opportunities. The community has now been enhanced in a manner that provides a greater benefit to all residents and not just the limited portion of the residential population that may have played golf. The golf course that was to be built would have offered a well maintained amenity and recreational use for a relatively small number of users while predominantly benefitting non-community residents. Homeowners living in the areas adjacent to the previously proposed golf course will continue to enjoy open space areas. However, under the new proposal that open space will be allowed to regenerate into a mature woodland and offer a more natural view and continued buffer to other homes and then become a benefit solely to residents of the community.

“The new plan for the open space will provide residents of all age groups at the Preserve to enjoy the dedicated open space. The open space, which will be easily accessible via the public streets, sidewalks and hiker/biker trails, will be deeded to the Homeowner's Association thereby allowing them maintain it for the benefit of all residents. A Woodland Conservation Easement that will restrict other uses or development from occurring and removal of the golf course results in the preservation of an additional 50+ acres of permanent open space. Moreover, the new proposal results in a safer and more usable system of hiker/biker trails that produce the following:

- “1. Residents will have more trails and better access to nearby natural areas to view and experience the woodland, wildlife, wetlands, ponds and creeks which exist within their own community.
- “2. Encourages more and better interaction between village residents.
- “3. Safer connections between villages and other amenities by separating vehicular and pedestrian circulation routes.

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- “4. Encourages trail use by providing more direct connections to individual neighborhoods and other recreational facilities.
- “5. Increases the number of residents that will be able to utilize the additional open space for recreational purposes.

“In summary, the proposed change from development of a golf course within the open space to a more integrated, usable active and passive trail system within the open space will result in providing a greater recreational benefit to a much larger group of residents. While the Applicant’s analysis did not evidence a need for additional recreational facilities as would have been required pursuant to Zoning Ordinance Section 27-514.10(d)(3), this revised program of recreational facilities at the Preserve, though extensive, remains well balanced and will provides diverse types of facilities for both active and passive recreation that is well suited to people of all ages without creating too heavy of a burden in additional HOA fees to residents. Modifications to the recreational facilities will need to occur on Specific Design Plans that are not part of this application in order to implement some of the revisions desired by the residents. To that end, the Applicant proposes this SDP provide that the Planning Board or its designee may approve all necessary revisions to Preserve SDPs for the implementation of revised recreational facilities proposed as part of this SDP converting the golf course to open space.”

Planning Board agreed with the applicant that the golf course was not a recreational facility that would have substantially benefited many of the residents, other than those who actually paid to join the private golf course. The newly proposed recreational facilities are additional facilities for the community above those that are previously found to be adequate through the preliminary plan of subdivision. The original plan provided for the following recreational facilities as stated in the applicant’s justification statement dated July 16, 2012, revised September 25, 2012 and November 29, 2012, prepared by Kevin Foster, ASLA, AICP Gutschick, Little, and Weber:

“COMMUNITY- WIDE RECREATION FACILITIES (per the approved Specific Design Plans)

“As noted above, 27-514.10(d)(4)(1) required the applicant to demonstrate that certain recreational amenities would be completed and open within the community prior to the issuance of a residential permit exceeding 50% of the allowable residential permits based on the approved density for the development. These facilities include the following:

- Community Center – Two story building which includes a large common meeting room, fitness center, bath and changing rooms, lifeguard station and will be used by all residents.
- Swimming pool – Olympic size pool with lap lanes for competitive swimming and recreational water play to be used by residents and children 6 years and older.

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- Wading pool – Suitable for small children for water play to be used by children 6 years old and younger.
- ½ Basketball Court – Striping and goal for basketball and all-purpose surface. Suitable for use by pre-teens, teens and older.
- Preteen Playground – Including play structures and play surface suitable for kids ages 6-14. Play activities include climbing, swinging, spinning, sliding, balancing, jumping, hanging, creative play, crawling, and exercise and to be used primarily by children and teens.
- Park Dedication - Although, this was not a recreational facility to be constructed or completed as required by the applicable Ordinance, the Preserve property initially included a large, undisturbed natural area that has since been dedicated to the Maryland National Capital Park and Planning Commission as a public park. Thus 75.03 acre land dedication provides a valuable addition and connection to the existing Piscataway Creek Stream Valley Park system that is enjoyed by Preserve residents and area wide residents, alike.
- School Property Dedication - Similarly, the applicable Ordinance did not require dedication of a 25.31 acre property to build a school as the need for the school is demonstrated. However, the applicant worked with the Parks Division of M-NCPPC to provide a site that would suffice as a “school/park” site so that both the BOE and the M-NCPPC would be able to utilize the additional recreational facilities to serve the area population including the residents of The Preserve. Typically, a middle or high school will have soccer, baseball, and football fields and a track with an all-weather surface.

#### “SPECIFIC VILLAGE RECREATION FACILITIES

- Bailey’s Village - A large, centrally located area adjacent to the retail/commercial center with brick paving around an open lawn with 12 benches for sitting.
- Danville Village - This village is comprised of larger, estate lots with 2590 linear feet of an 8’ wide hiker/biker trail running through it.
- Lusby Village -
  - A grassed, open play area located on village commons with 14 benches, brick paving, and a tot playground
  - A grassed, open play area located on village commons with 14 benches and brick paving.
  - A grassed, open play area located on village commons with 6 benches and brick paving.
- Edelen Village South - A large grassed, open play area located on village commons with 11 benches and brick paving.

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- Glassford Village-
- A grassed, open play area located on village commons with 4 benches and brick paving.
- A playground with 3 play structures, 6 benches, and brick paving.
- Three sitting areas with 6 benches and brick paving.
- A sitting area overlooking open space with brick paving.
- Four tennis Courts, which consist of four all-weather tennis courts with a pavilion, specialty paving, benches and landscaping, will be used by all residents along with parking lot for 16 cars.
- A grassed, open play area with 2 sitting areas with 1 bench each and brick paving.
- A wildlife management area with a small pond and wetland plantings intended to attract wildlife.”

The applicant negotiated additional recreational facilities with the community. The applicant added an open play area, a pavilion to replace the multipurpose court, and an additional active recreational facility. The additional recreational facilities are supported by staff.

#### COMPLIANCE WITH EVALUATION CRITERIA

9. The subject property was placed in the R-L Zone through the 1993 Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B. The specific design plan for The Preserve at Piscataway (AKA the Villages at Piscataway and the Greens at Piscataway) is not in conformance with the basic plan of Zoning Map Amendment A-9869 and its conditions and considerations as adopted in County Council Resolution CR-60-1993, relating to the golf course. The following conditions and considerations were attached to the approval of the zoning to the R-L Zone:
  12. **A minimum 50-foot buffer shall be established between the golf course and any adjacent roadway to allow for an edge treatment compatible with the existing historic rural character of the area. The edge treatment might include areas of tree preservation, open meadows and/or orchard-type plantings.**
  14. **Prior to CDP approval, a plan shall be developed and approved by the developer and the Urban Design staff of the Maryland-National Capital Park and Planning Commission that shall grant as a benefit to each purchaser of a home upon the property and all future purchasers some use of the golf course or an equivalent**

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**program that grants a direct benefit to all future purchasers of the homes in the Villages of Piscataway, such as preferential membership terms.**

- 15. The applicant shall demonstrate at CDP that the golf balls will not present a danger to the residents or their property. Setbacks from the golf course shall be determined by the most likely direction and distance that the golf ball will travel.**
- 20. The Basic Plan shall be modified to show all open space outside of the Golf Course and development pods.**
- 23. All development pods shall be connected by the internal pedestrian/bike trail networks.**
- 24. The internal network shall also accommodate bicycles.**
- 25. The trail network shall be totally separate from the golf cart paths.**
- 31. The final golf course envelopes, building envelopes, and access points shall be determined at the CDP stage. The relationship of Glassford Estates and the golf links surrounding it shall be determined at CDP to create a desirable golf course configuration even if it means the deletion of Glassford Estates. In the event that it is determined that the portion of the golf course adjacent to North Danville Estates, an area not to exceed 15 acres, is not needed as golf course, the building area of North Danville Estates may be expanded into this former golf course area.**

**Other Considerations:**

- 1. Any structure within the golf course, other than the club house and any associated buildings, shall be designed to resemble a barn or other agricultural building.**
- 9. The CDP submittal shall include a proposed Integrated Pest management Program for the proposed golf course and a conceptual layout of management practices to reduce impacts to surface groundwater. The SDP shall include the specific elements of the management practices and the location of the devices.**
- 10. The CDP submittal shall include a plan to monitor surface and ground water resources on the site the plan shall include a based-line monitoring phase for at least one year prior to the grading of site and follow-up monitoring phase for the two years from the start-up of the golf course.**

As demonstrated above, the basic plan for the R-L Zone clearly recognized the proposal of the golf course as an integral element of the overall design of the project. As such, subsequent reviews of the property in the development review process also recognized this requirement of the zoning of the property, and conditions of subsequent approvals also required the developer, his heirs, and/or



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assignees to address the basic plan conditions. It appears, however, that the approval of the language of Section 27-514.10(d) overrides the requirements for conformance to the Basic Plan.

10. Comprehensive Design Plan CDP-9306 for Villages of Piscataway was approved by the Planning Board on March 24, 1994, (PGCPB Resolution No. 94-98). As part of the review of the application, a phasing plan for the development of the property was approved that specifically required the completion of the golf course prior to the release of the 640th building permit. In 2004, the Planning Board approved a revision to the timing of the implementation of the golf course. The following conditions for CDP-9306 were required as part of the conditions of approval for the overall project. The following conditions related specifically to the conditions of approval relating to the golf course and/or recreational facilities:

2. a. **As part of the first Specific Design Plan for the Villages of Piscataway, the applicant, his heirs, successors and/or assigns, shall include the entire length of the New Piscataway Road within the boundaries of the Comprehensive Design Plan, and shall show how the road edge will be treated with elements such as walls, orchard plantings, other plantings of trees, native shrubs, grasses, and wildflowers, and preservation of existing trees or of unplanted open vistas.**

This specific design plan proposed to treat the edge of Piscataway Road as a woodland area. The Planning Board recommends that a three-rail fence be provided behind the ten-foot-wide public utility easement (PUE). The area in front of the easement will be the responsibility of the homeowner's association (HOA) or the entity by which the property is retained or to which it is conveyed. That party will be responsible for mowing and maintaining the ten-foot-wide public utility easement, and depending on the Maryland State Highway Administration (SHA) requirements, perhaps the area behind the curb. This same recommendation would apply to Floral Park Road, which is a County owned right-of-way. The plans also show areas where wetlands are located and a landscape buffer along the edge of the right-of-way, and a new revertible slope easement that was not shown on the originally approved golf course plans. Each of these areas should be revised to provide landscaping in accordance with the 2010 *Prince George's County Landscape Manual*.

- b. **In those areas where New Piscataway Road is adjacent to the golf course, the full width of the required 50-foot golf course buffer shall be shown and full details shall be provided for landscape treatment of the buffer.**

The proposed recommendation above will combine the proposed woodland and landscaping, in accordance with the Landscape Manual, with fencing elements.

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- c. **When the Specific Design Plan for the golf course is submitted, the required 50-foot buffer shall also be shown along Danville Road and Floral Park Road, and shall be treated as described above for New Piscataway Road.**

The proposed recommendation above will combine the proposed woodland and landscaping, in accordance with the Landscape Manual, with fencing elements.

- d. **The Specific Design Plan for the golf course shall also include information on the exact provisions of the plan which shall grant to each purchaser of a home and all future purchasers in the Villages at Piscataway some preferential membership terms at the golf course. This plan shall include one or more of the following or items similar to the following:**

- (1) **Discount on initiation fees**
- (2) **Discount on green fees**
- (3) **Preferential right to become member**
- (4) **Preferential starting times**
- (5) **Discount on yearly membership**
- (6) **Discount on lockers and/or other services**

**The plan shall be set forth in recorded covenants that run with the land and are noted on all record plats for the Villages at Piscataway.**

This condition is no longer applicable, due to the elimination of the golf course.

- e. **The Specific Design Plan for the golf course shall show the location of proposed streets and of all residential lots (as approved on the Comprehensive Design Plan) which are located adjacent to or in close proximity to the golf course. The Specific Design Plan shall show overlaid on the golf course and adjacent streets and lots a graphic study, prepared by a certified golf course architect, of the most likely direction and distance of the errant golf shots expected from all tee locations of all holes except Numbers 12, 13 and 14, and from all other locations on these holes from which errant shots may be expected.**

**If, in the judgment of the Planning Board, the layout of the golf course presents too great a hazard to residents or their property, the golf course layout shall be revised or, if this is not possible, the affected areas of residential lots shall be prohibited for residential use and shall become homeowners' open space or part of the golf course.**

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These concerns were addressed with the SDP for the golf course, and no longer apply.

- f. **The Specific Design Plan for the golf course shall set forth the detailed design of the proposed surface and groundwater monitoring program for the golf course, all measures proposed to reduce the transport of nutrients and pesticides into the watershed, exact operational details of the integrated pest management system, and proposed measures for incorporating wildlife habitat enhancement into the golf course design.**

These concerns were addressed with the SDP for the golf course, and no longer apply.

- g. **The Specific Design Plan for the golf course shall illustrate the entire network of golf cart paths and demonstrate that they are completely separate from all other proposed trails.**

These concerns were addressed with the SDP for the golf course, and no longer apply.

- 31. **The Swimming Center shall be equipped with a meeting room that will accommodate a minimum of 100 people, and a kitchen, as well as the normal bathhouse facilities. The swimming pool itself should include the following features:**
  - a. **Zero depth entrance: wide ramps and/or recessed stairs to provide easy access for young children, the disabled and seniors.**
  - b. **Adequate shallow water: an area of water depths from two to three feet for children learning to swim.**
  - c. **Lap swimming lanes: a noncompetitive pool should have at least three lap lanes with a minimum 20-meter length and minimum depth of 3.5 feet.**

This condition addressed the previous density increments awarded at the time of the CDP and the swim center is built in accordance with the above conditions.

- 32. **The private recreational facilities shall have bonding and construction requirements as follows, all of which shall be incorporated in recreational facilities agreements (as specified in the *Parks and Recreation Facilities Guidelines*) prior to Final Plat of Subdivision.**

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Facility	Bond Posted (or other suitable financial guarantee, suitability to be judged by the General Counsel's Office of M-NCPPC)	Construction Completed
Village Green in Bailey Village (including "focal point" and any children's play area).	Prior to release of any building permits in Bailey Village.	Prior to release of 50% of the residential building permits in Bailey Village, or permits for the first 20,000 square feet of office or retail, whichever comes first.
Tennis Complex in Glassford Village South	Prior to release of any building permits in any village.	Prior to release of the 500th residential building permit for the development as a whole.
Village Green in Edelen Village South (including "focal point" and any children's play areas)	Prior to release of any building permits in Edelen Village South	Prior to release of 50% of the building permits in Edelen Village South
Swimming Center in Edelen Village North	Prior to release of the 250th building permit in any village.	Prior to release of the 500th residential building permit for the development as a whole.
Village Green in Lusby Village (including "focal point" and any children's play areas).	Prior to release of any building permits in Lusby Village.	Prior to release of 50% of the building permits for Lusby Village.

**Bailey's Village** includes a large, centrally located area adjacent to the retail/commercial center with brick paving around an open lawn with 12 benches for sitting, which has not yet been constructed.

**Lusby Village** includes a grassed, open-play area located on village commons with 14 benches, brick paving, and a tot playground, which has been constructed. Lusby Village also includes a grassed, open-play area located on village commons with 14 benches and brick paving and an additional grassed, open play area located on village commons with 6 benches and brick paving, which have not been constructed.

**Edelen Village South** includes a large grassed, open-play area located on village commons with 11 benches and brick paving, which has been constructed.

**Glassford Village** includes a grassed, open-play area located on village commons with four benches and brick paving; a playground with three play structures, six benches, and brick paving; three sitting areas with six benches and brick paving; a sitting area overlooking open space with brick paving; four tennis courts, which consist of four all-weather tennis courts with a pavilion, specialty paving, benches and landscaping, will be used by all residents along with parking lot for 16 cars; a grassed, open play area with two sitting areas with one bench each and brick paving; a wildlife management area with a small pond and wetland plantings intended to attract wildlife. All of the amenities in Glassford Village have been constructed, but some of the seating elements were removed, for an unknown reason.

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**The Central Recreation Facility** features a Community Center which includes a large common meeting room, fitness center, bath and changing rooms, lifeguard station and will be used by all residents. The Community Center is completed and a temporary use and occupancy permit has been issued with the final use and occupancy permit pending. The Central Recreation Facility also includes the following: swimming pool – Olympic size pool with lap lanes for competitive swimming and recreational water play to be used by residents and children six years and older; wading pool – suitable for small children for water play to be used by children six years old and younger; and a preteen playground – including play structures and play surface suitable for kids ages six to fourteen. Play activities include climbing, swinging, spinning, sliding, balancing, jumping, hanging, creative play, crawling, and exercise and will be used primarily by children and teens. The swimming pool, wading pool and preteen playground have all been completed.

33. **At the time of Specific Design Plan, the applicant, his heirs, successors and/or assignees, shall demonstrate that the proposed pre-school and school-age play areas comply with the following:**
- a. **The play areas shall be designed to be as harmonious as possible with the neotraditional design theme in terms of design, details, color and other characteristics.**
  - b. **A minimum of one-third of the features in each play area shall be usable by handicapped children and shall be accessible to the handicapped by means of smooth resilient surfacing which is flush with the edges of the play area. (Prior to submission of any affected Specific Design Plan, the applicant shall confer with the Urban Design Review Section on means for fulfilling this condition.)**

The conditions above have been complied with and were demonstrated on the specific design plan.

34. **All stormwater management (SWM) ponds shall be designed to fit harmoniously into the site by means of naturalistic and irregular contours and grading in keeping with the general topography of the area. All SWM ponds shall be designed as an amenity with special attention to appearance of inlet and outlet structures, to pond edge treatment, landscaping, location of trails, elimination of rip rap channels where possible, and other aesthetic considerations.**

The stormwater management ponds have been approved by the Department of Public Works and Transportation (DPW&T). In the review of this SDP to eliminate the golf course, there are three ponds in addition to the twin ponds located at the entrance of the community that will require mowing by the HOA and other aesthetic maintenance

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requirements. According to Final Plats recorded in Plat Book REP 195 at Plat Number 39 and 40 for the twin entrance features, Liber 15819 folio 13, stormwater management easement states that the County is responsible for the facility maintenance of the ponds.

The plans show the stormwater management pond within the golf course and that woodland will ultimately surround these facilities. In order to retain access and to prevent the encroachment of the woodland into the easement areas, the ultimate landowner, whether it is the HOA or another entity, will be required to mow these areas.

**37. Prior to the issuance of the 818<sup>th</sup> residential building permit for the entire project, and prior to the issuance of any commercial building permits within Bailey's Village, one of the following shall occur:**

- a. The golf course shall be fully constructed and open for use.**
- b. The Basic Plan shall be amended to delete the golf course and eliminate all conditions relating to the golf course.**

As demonstrated above, the comprehensive design plan for the R-L Zone clearly recognized the proposal of the golf course as an integral element of the overall design of the project. As such, subsequent reviews of the property in the development review process also recognized the requirement of the CDP and its conditions. Again, it appears that the approval of the language of Section 27-514.10(d) overrides the requirements of Section 27-528(a)(1) of the Zoning Ordinance for conformance to the CDP.

- 11. The specific design plan is subject to the requirements of the *Prince George's County Landscape Manual*, Section 4.6, Special Roadways. The plans should be revised to demonstrate conformance to Section 4.6 along the Special Roadways. If additional planting is required, then Section 4.9, Sustainable Landscaping will also apply. If the applicant cannot conform to the strict requirements of the 2010 *Prince George's County Landscape Manual*, then the applicant may seek approval of an Alternative Compliance request.
- 12. **Conveyance of the Former Golf Course Land to the Homeowners Association, Impacts to the HOA**—As part of this application, the plans indicate that the applicant intends to convey the entirety of the 305 acres of land previously identified as a golf course to the homeowners association (HOA). The applicant currently owns the property and the previous plans of development did not indicate that the land would be transferred to the HOA.

The Planning Board understands that the HOA is currently developer-controlled and will be until the time established by the declaration of covenants for commencement of resident or homeowner control. According to the applicant's testimony that will occur when 75 percent of the homes are occupied within the community. The total number of units within the development (not including the future multifamily building to be located within Bailey's Village) is approximately 953 dwelling units. Assuming that the HOA includes all of the units (except the multifamily units,

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which will most likely be contained within their own parcel as an apartment or condominium building), the HOA may not be transferred from developer control to homeowners' control for a number of years.

There is one citizen who is a homeowner representative on the Board of Directors, Larry Mack, who testified at the Planning Board hearing in support of the applicant's proposal. The voting rights on the Board of Directors are heavily weighted in favor of the developer at this time, which is not unusual. This is the typical process for the transfer of land to the HOA, and is justified because the developer must bear most of the costs in the construction process for infrastructure such as the streets, lighting, stormwater management, etc. as homes are being built and sold within the community. It is also in the developer's best interest to provide for an attractive setting for the community to facilitate their goal of selling homes.

Nearly half of the units have either been built or are in the building permit process. Homeowners within the development may have purchased their homes under the impression that they were buying into a golf course community, as testified by Nii-Kwashie Aryeetey at the Planning Board hearing. If residents had researched the development review cases, they may have concluded that there was sufficient documentation in the records that the golf course was a requirement of the developer, his heirs, or assignees. However, the provisions of County Council Bill CB-57-2012 appear to override the standard development review process and the record of approvals and conditions, and allow for the removal of the golf course from the plans through a SDP revision process.

At the Planning Board hearing, staff and the applicant debated the challenges that this proposed land transfer may create for the HOA. The Planning Board concluded that they agreed with the applicant that the cost associated with the transfer and maintenance of the land area of the golf course would not be a financial burden on the future homeowners association.

Below are the factors that were discussed:

- a. **Additional Recreational Facilities:** The legislation requires that the applicant provide a balanced recreational program for the community. The applicant has been working with the community to provide recreational facilities that they desire to be placed within the community. The Planning Board finds that the recreational facilities proposed as part of the original development plans provided a well-balanced program of recreational facilities. The proffered additional facilities as proposed by the applicant are fully supported by the Planning Board.

The applicant provided a breakdown of the estimated maintenance and escrow amounts on a yearly basis for the additional proffered recreational facilities, woodland and insurance/overhead, which is provided below:

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THE PRESERVE AT PISCATAWAY  
 OPEN SPACE SDP 0608-01  
 ESTIMATED MAINTENANCE & RESERVE EXPENSES  
 November 30, 2012

DESCRIPTION OF PROPOSED RECREATION FACILITY	ESTIMATED CONSTRUCTION COSTS	ESTIMATED YEARLY MAINTENANCE EXPENSE	ESTIMATED YEARLY RESERVE & REPLACEMENT CONTRIBUTION
HIKER/BIKER TRAILS	\$350,000.00	\$5,250.00	\$7,000.00
PAVILLION	\$50,000.00	\$2,500.00	\$2,500.00
PUTTING GREEN	\$30,000.00	\$2,250.00	\$3,000.00
ACTIVE OPEN SPACE	\$25,000.00	\$7,500.00	\$1,250.00
OPEN SPACE WOODLAND CONSERVATION	\$0.00	\$7,500.00	\$0.00
INSURANCE & OVERHEAD	\$0.00	\$2,750.00	\$0.00

TOTAL ESTIMATED YEARLY MAINTENANCE EXPENSES:	\$27,750.00
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TOTAL ESTIMATED YEARLY RESERVE & REPLACEMENT CONTRIBUTION	\$13,750.00
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**Notes:**

- Estimated yearly maintenance expenses and estimated yearly reserve & replacement contributions are estimated and for informational purposes only.
- NVR/MS Cavalier Preserve LLC, Cardinal Management and HIOA staff assisted in the preparation of these estimates.
- The above referenced estimated construction costs are based on SDP 0608-01, DPW&T cost estimate standards for labor & materials and performance bonds and similar project costs.
- Hiker/Biker trail, pavilion, active open space and open space woodland conservation yearly maintenance expenses and reserve and replacement contributions are based on existing property expenses, comparable project expenses and previously completed reserve studies completed for this property and comparable projects.
- To date, no expenses have been incurred in the last 8-years± on the existing woodland conservation areas presently maintained by The Preserve at Piscataway HOA. The estimated yearly maintenance expense referenced above is a conservative estimate based on maintenance items required by the TCPH.
- Insurance & overhead maintenance expenses are based on costs currently incurred on similar areas throughout the community.

- b. **Additional Mowing and Lawn Maintenance Expenses:** The lawn maintenance is by far the largest expense for any HOA. The Planning Board finds that the addition of 300 acres would require mowing along the trails in order to keep the weeds down and the woodland from encroaching into the trail spaces, perhaps along Piscataway Road and Floral Park Road, the interior street system, where houses do not front on the street and where the former golf course lands front on the street edge, and to prevent the woodland, invasive species, and weeds from encroaching into the street. It is important for these edges to



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appear neat and manicured to provide an aesthetically pleasing appearance for the overall community.

- c. **Stormwater Management:** According to the final plats for the SWM twin ponds at the entry of the development, a stormwater management agreement has been recorded. This agreement applies to the twin ponds and may also apply to the other ponds within the golf course. Mowing and aesthetic appearance of the SWM facilities, throughout the development, including other remaining stormwater management facilities already located on HOA lands, will be the community's responsibility.
- d. **Woodland Banking:** The Planning Board recognized that approximately 98 acres of the land area of the former golf course will be placed in a tree conservation bank for the benefit of the developer. The applicant has revised the TCPII as a companion to this case to reflect the changes in grading to the golf course. The developer will benefit economically from the woodland banking as these woodland banks are currently valued at approximately \$20,000 per acre. The TCPII is the mechanism that provides for the banking of woodland mitigation as recognized by the State of Maryland as an acceptable way to conform to the state/local laws governing woodland conservation. The developer will be required to sign a Forestry Stewardship Plan that will provide for long-term management of the woodland banking area. The developer will sell off the woodland bank incrementally, and then the woodland will become the responsibility of the HOA. Eventually, nearly all of the open space of the former golf course lands will be woodland that will be protected under conservation easements.

Once the developer has been released from the bonding required to establish the woodland, the HOA will be required to maintain the woodland in perpetuity. The land will be a source of future revenue if the property is correctly managed even after the banking has been completed through harvesting of timber. In areas of natural regeneration, the timbering of the land would be ready in 60-80 years, per Brian Stupak, Department of Natural Resources, Maryland Forest Service. If selective clearing is proposed, then managing for a harvest may occur earlier.

- 13. Dr. Lisa Hayes, President and CEO of the Accokeek Foundation, testified before the Planning Board as a proponent of the proposal and in support of the staff recommendation. Specifically, in letter dated December 19, 2012 (Proponent's Exhibit #1), Dr. Hayes to Chairman Hewlett, she states:

"First, we empathize with the community members that may have purchased their homes in the community with the expectation that they would be living on or near a golf course. That said, in light of the facts presented here, we are supportive of many of the planning staff's recommended conditions of approval. These include those conditions which would ensure the perpetual protection for the woodland conservation areas that are critical to preserving the Mount Vernon view shed, as well as those conditions covering the preservation of known archaeological resources.

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“Second, we understand the planning staff’s concern about transferring more than 300 acres to a homeowners association (HOA), particularly in light of the fact that this particular HOA is still in its early phases of development and is not yet comprised of the homeowners that would be responsible for the long term maintenance of the part of their community. We support the recommended conditions of approval in this respect; however, having reviewed the discussion about other alternatives in the report (e.g. establishment of a separate LLC, working with a land conservation organization to manage a portion of this property), we also want to invite the developer to contact us for a conversation to explore these options further. Given our mission to protect the Mount Vernon viewshed, and the potential to promote the preservation of high quality natural areas that are proximate to the County’s Priority Preservation Area, we would like to see the best management plan possible established here.

“Third, we want to register our support again for stronger regulatory protections for the Mount Vernon viewshed as far as future development is concerned. We have established a strong relationship with planning staff and community members to provide input on previous planning efforts, such as the Priority Preservation Area. We look forward to reviewing and commenting on the forthcoming Mount Vernon Viewshed Study and other planning efforts.”

Staff recommended that the Planning Board place the decision of whether the 304 acres of the former golf course will be conveyed to the HOA squarely in the hands of homeowner-controlled HOA, rather than allowing the land to be transferred to a developer-controlled HOA as proposed by the applicant. Staff proposed Condition 8 required the HOA to be established as a homeowner-controlled entity and a vote to be taken in the affirmative before the land could be conveyed to the HOA. Alternatively, the applicant could retain the land and/or convey the land to a third party for conservation purposes. However, the Planning Board disagreed with the staff, and finds that the property should be allowed to be conveyed directly to the HOA, under the Developer controlled HOA, as the Planning Board expressed concerns regarding the impact that a deferred decision might have on the success of the community in regard to sales and competition of the community.

14. **Community Planning**—The Community Planning Division offered the following comments relating to the Mount Vernon viewshed:
- a. The property covered by this application is within the Mt. Vernon viewshed. The historic viewshed could be adversely affected by excessive removal of trees in critical vegetation areas (on Sheets 7, 9, and 10) within the historic view.
  - b. Buildings located in Edelen Village and farther east could become visible if critical vegetation shown on Sheet 7 were removed to accommodate fill dirt; however, the plans have been revised to provide for reforestation that will ultimately mitigate the visual impact of the mounds.

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### **General Plan**

The 2002 *Prince George's County Approved General Plan* has identified this application for The Preserve at Piscataway, comprised of approximately 879 acres originally known as the Villages at Piscataway, as within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable.

### **Master Plan**

The 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V* is the applicable master plan in light of the recent court order that overturned the 2009 Approved Subregion 5 Master Plan and Sectional Map Amendment. The future land use designated for the subject site in the 1993 master plan is "residential low-transition area." The approved basic plan and subsequent approved development plans are the controlling documents.

### **Planning Issues**

The portion of The Preserve at Piscataway covered by this application is within the Mt. Vernon Viewshed Area of Primary Concern. Several studies have undertaken analyses to identify areas where new development would impair the viewshed. These analyses have concluded that retention of tree cover is a critical determinant of protecting the Mt. Vernon viewshed. An evaluation for potential impairment of the viewshed done for this application has determined that there should be minimal clearing of trees and critical vegetation shown on Sheets 7, 9, and 10 to minimize the visual impact of this proposal. The applicant has submitted revised plans dated September 24, 2012 that reduces the impact to the viewshed.

This analysis does not compare the current proposal with the tree clearing previously proposed for the golf course development. However, a presumption is made that cleared areas for the golf course would be green and would blend with the dominant green tones in the viewshed, thereby having negligible adverse impact on the viewshed. The clearing of critical vegetation in the current proposal would be visible as bare ground from Mt. Vernon temporarily, but would not create a permanent adverse effect on the viewshed. It is understood that, ultimately, reforestation will occur atop the dirt mounds, which will be a positive viewshed impact in the long run.

Sheets 7, 9, and 10 contain areas of critical vegetation where structures 36 feet or higher would be visible from Mt. Vernon if the vegetation that presently provides screening were removed. The elevation above sea level increases from about 55 feet along Piscataway Road to 185 feet at Medinah Ridge Road. The ideal manner of protecting the viewshed is to retain woodland that is presently visible from Mt. Vernon or add woodland to screen new development from Mt. Vernon. Buildings located in Edelen Village and farther east could become visible if critical vegetation were removed on areas shown on Sheets 7 and 9. The revised plans have addressed the issue by providing woodland conservation in areas where fill material is located that will mitigate, and may possibly enhance, the screening of future structures yet to be developed, since the vegetation would be planted on the dirt mounds rather than at grade. Community Planning Division agrees that the seed mix proposed for reforestation will minimize the visual impact of the dirt mounds in the short term.

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15. **Environmental Planning Section**—The Environmental Planning Section has reviewed the most recent revised Specific Design Plan for The Preserve at Piscataway, SDP-0608-01, and the Type II Tree Conservation Plan, TCPH-044-07-01, stamped as received by the Environmental Planning Section on November 27, 2012. The following includes the relevant discussion for the subject application considering the overall environmental concerns for the property.

#### **Site Description**

The revised Specific Design Plan for The Preserve at Piscataway – Golf Course containing 304.90 acres in the R-L zone is located in Planning Area 84, primarily south of Floral Park Road and west of Danville Road. According to current air photos reviewed with the 2006 SDP application, about 65 percent of the golf course site was originally wooded. Floral Park Road, Old Piscataway Road and Danville Road are designated Historic roads. There are no nearby noise sources and proposed use is not expected to be a noise generator. There are streams, wetlands and floodplain associated with Piscataway Creek in the Potomac River watershed on-site. No species listed by the State of Maryland as rare, threatened or endangered are known to occur on the subject property or on adjacent properties. The *Prince George's County Soil Survey* indicates that the principal soils on the site are in the Aura, Beltsville, Bibb, Elkton, Galestown, Othello, and Sassafras soils series. Marlboro Clay is known to occur on the site. The site is in the Developing Tier according to the General Plan. Portions of the SDP include Regulated Areas and Evaluations Areas designated in the Countywide Green Infrastructure Plan.

#### **Environmental Issues Addressed in the Subregion V Master Plan.**

The Subregion V Master Plan (1991) reviewed with the original application for this specific design plan indicated that there were substantial areas designated as Natural Reserve on the site. The Natural Reserve has been superseded by the Regulated Areas as designated by the Green Infrastructure Plan.

#### **Countywide Green Infrastructure Plan**

The design of the woodland conservation areas approved with TCPH-044-07 was in conformance with approved TCPI-009-94-02. Except for areas where variation requests were approved during the approval of Preliminary Plan of Subdivision 4-03027, all priority woodland areas were to be preserved. Many areas where grading and clearing of woodland within expanded stream buffers was approved were proposed to be reforested. The overall design at that time fulfilled and exceeded the goals of the 2005 *Approved Countywide Green Infrastructure Plan* by preserving woodland along not only the primary stream valleys but also along the secondary stream valleys.

Evaluation of revisions to the TCPH to address the goals and strategies of the Countywide Green Infrastructure Plan is appropriate since it assists in the identification of priority woodlands for preservation through woodland conservation. The current revision to the TCPH provides for additional preservation and afforestation/reforestation on the site because the grading limit of disturbance and clearing previously proposed for construction of the golf course has been greatly reduced and because the applicant is proposing woodland mitigation bank on the property.

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Clearing has been reduced from 80.75 acres to 23.72 acres of woodland on the net tract area of the golf course.

#### **Environmental Review**

- a. This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. These areas contain the expanded stream buffers, as well as wetlands and wetlands buffers. The Specific Design Plan and Type II Tree Conservation Plan submitted with the current application show the streams on the site and the expanded stream buffers which include the minimum 50-foot stream buffers, adjacent wetlands and 25-foot wetland buffers, the 100-year floodplain, all slopes exceeding 25 percent, and all slopes between 15 and 25 percent on highly erodible soils.

The previously approved SDP proposed impacts to expanded stream buffers and wetland and wetland buffers. Impacts to these buffers are regulated by Section 24-130 of the Subdivision Regulations and require preservation to the greatest extent possible unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. All of the impacts proposed on the previously approved SDP-0608 were variations granted by the Planning Board during the review and approval of Preliminary Plan 4-03027.

The conversion of the previously approved golf course to open space results in a significant reduction in environmental impacts to the site. Those that remain are necessary for the installation of site utilities, including sanitary sewer and stormwater management facilities necessary for residential development on the site. No new or additional impacts are necessary for conversion to open space. The reduction in impacts proposed under the current application is quantified in the following table:

	Impacts Approved with SDP-0608	Impacts Proposed with SDP-0608-01	Reduction in Impacts
Number of Impacts	17	4	13 (-76%)
Area of Impact to Wetlands	1.10 acres	1.04 acres	0.06 acres (-5.4%)
Area of impacts to Wetland buffers	0.96 acres	0.78 acres	0.18 acres (-18.75%)
Area of Impacts to Expanded Stream Buffer	1.98 acres	0.75 acres	1.23 acres (-62.12%)

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The current application was grandfathered from the requirement for submittal of a Natural Resources Inventory due to the prior approval of a preliminary plan and specific design plan. No further information regarding the protection of sensitive environmental features evaluated at time of preliminary plan and prior specific design plan review is required with regard to this SDP.

- b. This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in size and has more than 10,000 square feet of woodland. A TCPI and TCPII have previously been approved for the site.

A Forest Stand Delineation was reviewed with CDP-9306. A revised Forest Stand Delineation was reviewed with 4-94017. A Type I Tree Conservation Plan (TCPI-009-94) was approved with CDP-9306, and a revision to the Type I Tree Conservation Plan (TCPI-009-94-01) was approved with 4-94017. A further revision to the Type I Tree Conservation Plan (TCPI-009-94-02) was approved with 4-03027. The Type I Tree Conservation Plan provided for all woodland conservation for the required minimum 35 percent woodland conservation requirement to be met on-site; and did not allow woodland conservation areas on lots less than 20,000 square feet in area, the use of fee-in-lieu, or the use of any off-site woodland conservation to fulfill requirements.

- c. A Type II Tree Conservation Plan (TCPII-044-07) was submitted and approved with SDP-0608. Type II Tree Conservation Plan TCPII – 044-07 included 317.61 acres of the 878.00 acre overall development site. The golf course development phase contained 196.69 acres of upland woodland and 19.13 acres of floodplain woodland. The previously approved plan proposed clearing 80.75 acres of upland woodland and clearing of 0.65 acres of floodplain woodland.

Type II Tree Conservation Plan TCPII-044-07 showed woodland conservation being provided within the limits of the golf course with 115.94 acres of on-site woodland preservation and 13.34 acres of on-site afforestation/ reforestation. The proposed on-site woodland conservation for the golf course was 31.71 percent, but the overall preservation or afforestation reforestation of 36.9 percent of the net tract within the overall Preserve at Piscataway Development, allowing the overall project to be found in compliance with the requirement of the basic plan for 35 percent of the site to be retained in woodland conservation (Consideration #4 of A-9869 & A-9870, CR-60-1999, September 14, 1993). Additionally the plan provided for the preservation of a large contiguous wooded area in the southern portion of the site, which is adjacent to other previously protected woodlands which fall within the designated Priority Preservation Area.

The design of the woodland conservation areas shown on the approved TCPII was in complete conformance with TCPI-009-94-02. Except for areas where variation requests were approved during the approval of Preliminary Plan of Subdivision 4-03027, all priority woodland areas were to be preserved. Many areas where grading and clearing of woodland of expanded stream buffers was approved were proposed to be reforested. The

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overall design approved fulfilled and but exceeded the goals of the Countywide Green Infrastructure Plan by preserving woodland along not the primary stream valleys, and along the secondary stream valleys.

- d. A proposed -01 revision to Type II Tree Conservation Plan TCPII-044-07 was submitted with the current application. The gross tract area for this development phase is 304.90 acres with 16.38 acres of floodplain, resulting in a net tract area of 288.52 acres. The subject application contains 204.54 acres of upland woodland and 16.22 acres of floodplain woodland. Because of the elimination of the golf course, the current plan proposes to reduce the amount of woodland clearing previously shown on the currently approved TCPII to 23.72 acres of upland woodland and the clearing of 1.79 acres of floodplain woodland.

The subject TCPII proposes the provision of additional woodland conservation within the limits of the golf course, with 180.73 acres of on-site woodland preservation and 84.01 acres of on-site afforestation/reforestation, for a total of 264.74 acres of on-site woodland conservation.

The previously approved on-site woodland conservation percentage for the golf course was 31.71 percent, while the woodland conservation percentage proposed with the current application is 91 percent.

From an overall woodland conservation perspective, the TCP provided 36.9 percent of the overall net tract as woodland, which exceeded the 35 percent for compliance with the Basic Plan. The increased woodland conservation proposed with the current TCP II revision increases the percentage of woodland conservation provided on the overall property to 51.06 percent.

The design of the woodland conservation areas shown on the approved TCPII continues to be in general conformance with TCPI-009-94-02. The priority woodland conservation areas retained and reforested with the current application are further enhanced through the creation of large contiguous blocks of woodlands and the further expansion of stream buffers in sensitive environmental areas providing for both woodland and wildlife habitat conservation. The revised TCPII for the overall development fulfills the goals of the Countywide Green Infrastructure Plan by expanding woodlands along the primary and secondary stream valleys.

The revised plan includes some technical errors and oversights that need to be corrected and/or revised and these proposed requirements have been included in the recommendation section of this report as Condition 2.

- e. The Forest Stand Delineation reviewed with the TCPI submitted indicated 172 specimen trees located on the overall site. Ninety-five of the specimen trees were located within the golf course development phase. Under the previously approved TCPII, 65 of the specimen

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trees identified were shown to be removed and only 30 specimen trees were proposed to be saved. Under the current TCPII revision, the number of specimen trees to be removed has been reduced to 27 trees, with 69 specimen trees remaining.

The proposed revisions will result in the retention of 38 additional specimen trees, resulting in the retention of 72.6 percent of the specimen trees located within the current development phase.

- f. The subject property is located in the Mount Vernon Viewshed Area of Primary Concern, which has been delineated as an evaluation tool for the protection of the Mount Vernon Viewshed. Properties located within the Area of Primary Concern are generally referred to the National Park Service, National Capital Region, for analysis of the location and elevation of the subject property, the elevation of structures proposed on the site, and the potential for vegetative screening between the subject property and Mount Vernon as the viewpoint. This application was referred, but the National Park Service did not comment.

Some of the past development at the Preserve at Piscataway particularly that previously constructed in Edelen Village South, which was placed at a ground level elevation of 180 feet mean sea level (msl), has been found to be highly visible from Mount Vernon due to a sudden rise in elevation which occurs along the Piscataway Creek stream valley. A careful evaluation of the height of the proposed construction, the ground level elevation, and retained areas of vegetation to determine the potential visibility of the proposed structures is appropriate. If an evaluation determines that there is potential for visibility related to the Viewshed of concern, an additional level of woodland conservation/landscaping and architectural review is appropriate.

Using GIS topographic modeling techniques, cross-sections were drawn from the front porch of Mount Vernon, which is situated 124 feet above mean sea level (msl) through various locations with the previous golf course in order to evaluate the impact of vegetation removal and the berming proposed with the current application. As a result, the removal of any additional vegetation on-site was significantly reduced, on-site afforestation/reforestation was increased, additional specimen trees were retained as seed sources for natural regeneration on-site, and the location and elevation of berming proposed was significantly revised to provide a more naturalistic appearance.

The potential impacts of the current proposal to the conservation and protection of the Area of Primary Concern related to the Mount Vernon Viewshed appears to be sufficiently addressed by the proposed on-site preservation, afforestation and reforestation proposed, if these areas are permanently protected as perpetual woodlands.

**Condition:** Prior to certification of the SDP, a woodland conservation easement shall be recorded which provides perpetual protection for the woodland conservation areas approved with Type II Tree Conservation Plan TCPII-044-07-01 to retain the area of primary concern related to the Mount Vernon viewshed.



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- g. The *Prince George's County Soil Survey* indicates that the principal soils on the site are in the Aura, Beltsville, Bibb, Elkton, Galestown, Othello, and Sassafras soils series. Condition 17 of PGCPB Resolution No. 94-213, Preliminary Plan of Subdivision 4-94017, June 24, 1994 was specifically included to require future review of areas where highly erodible soils occur on slopes in excess of 15 percent. Aura, Beltsville, Elkton, and Othello soils are highly erodible. This information is provided for the applicant's benefit. No further action is needed as it relates to the review of this Specific Design Plan. A soils report may be required by Prince George's County during the permit process review.
- h. A Stormwater Management Concept Plan, 8008470-1994-01, has been approved by the Prince George's County Department of Environmental Resources (DER). The current plan application shows stormwater management facilities on the previous golf course consistent with previous approvals.

16. **Subdivision Review**—The subject property is located on Tax Maps 142 in Grid D3-D4, E3-E4, F2-F4 and 143 in Grid A2-A3, is 304.90 acres, and is within the Residential Low Development (R-L) Zone. The application is specifically for Parcels GC-1, GC-2, GC-3, and GC-4, in the Preserve of Piscataway subdivision.

The site is the subject of the approved Preliminary Plan of Subdivision 4-03027 and the resolution was adopted by the Planning Board on June 17, 2003 in accordance with PGCPB Resolution No. 03-122 and is valid until December 31, 2013. The SDP shows the boundary of all the parcels as reflect on the approved preliminary plan except for Parcel GC-1. The SDP should revise the boundary of Parcel GC-1 as reflected on the approved preliminary plan. Parcel GC-3 has been record in Plat Book REP 216-16. Parcels GC-1, GC-2, and GC-4 have not been recorded in a plat which is required. A final plat for the subject property must be accepted by M-NCPPC before the preliminary plan expires or a new preliminary plan is required. The applicant may ask for an extension of the validity period for the preliminary plan beyond December 31, 2013. The resolution for the approved preliminary plan contains 47 conditions. Since all of the lots have been platted, these conditions resulted in notes on the final plats that relate to the golf course. The following conditions relate to the review of this application (**in bold**):

7. **Prior to approval of any final plat of subdivision the recorded covenants for the preferential membership terms shall be submitted and a note shall be added to the plats referencing the covenants.**

The covenant for the preferential membership terms has been record in Liber 15709 Folio 678 and has been added as a note on record plats for the single-family residential lots in the Preserve of Piscataway subdivision. The approved preliminary plan labeled Parcels GC-1, GC-2, GC-3, and GC-4 as golf course. The Planning Board determined that the golf course property should not be conveyed to the HOA at this time and that the property should be recorded as a final plat and the recorded covenants for the preferential membership terms should be dissolved.

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This SDP proposes a network of trails on the golf course parcels which connect to the single-family residential lots. The single-family residential lots in the Preserve of Piscataway subdivision are not part of this SDP-0608-01. This SDP shows that the trail connections are located next to single-family residential lots in the Edelen Village North, Bailey's Villages, and Edelen Village South. The trail connections are not shown on the record plat of these single-family residential lots. The specific design plan and record plat for single-family residential lots in these villages should be revised to adjust the property boundaries to reflect the proposed trail connection locations. Since the proposed trails are in close proximity to dwellings, adequate notice for the location of the trail for prospective purchasers and posting of the new trail location should occur. The Planning Board includes conditions which will provide standards for notification and s recreational facilities agreement, bonding and appropriate triggers for the construction of the private HOA trails.

The proposed hard surface eight-foot-wide hiker-biker trail on the golf course property as a recreational facility for the residents should be placed in a 20-foot-wide clear zone and reflected on the TCP. The TCP currently shows regeneration areas over the surface of the trail and should be revised. If the golf course property is not conveyed to the HOA, access for the HOA residents must be secured thru the recordation of an access easement which would set forth the rights, responsibilities, and liabilities of the parties. That easement should be a minimum of 20 feet wide and the liber folio of the easement reflected on each final plat for the golf course property. If access to the trails is desirable prior to the conveyance of the land to the HOA, a revertible access easement agreement would be recommended which would then expire once the HOA accepted ownership of the golf course property.

To ensure construction of the trails and other proposed recreational facilities, a Recreational Facilities Agreement (RFA) should be recorded in land records as well as bonding of those facilities. The liber folio of the recreational facilities agreement should be reflected on the record plats with appropriate notes to require the bonding of those facilities.

This SDP shows the proposed trails running through two off-site parcels, Parcel C and D, at the intersection of Medinah Ridge Road and Piscataway Road. Parcel C and D are not a part of this SDP. Parcel C has been record in plat book REP 195-39 and Parcel D has been record in plat book REP 195-40. Based on the record plat, Parcel C and D have an existing stormwater management easement, Liber 15819 Folio 13, on the entire parcels, and the parcels are subject to approved preliminary plan 4-02059 and specific design plan, SDP-9805, Green at Piscataway. The specific design plan and record plat for Parcel C and D should be revised to address and adjust the stormwater management easement to reflect the proposed trail connection.

The preliminary plan of subdivision 4-03027 approval identified the golf course to be retained by the applicant. This application proposes to convey the entire acreage of the golf course to the HOA. There are a number of conditions relating to the golf course that are currently reflected on the single parcel that has a recorded plat. The platted golf course parcel should be re-platted and those not yet platted should be in order to provide appropriate ownership information, protective

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covenants to ensure access to the HOA, and reference to the required recreational facilities agreement and bonding in accordance with the platting requirements of Section 24-119(e).

County Council Bill CB-57-2009 allows for the conversion of the golf course. In this case the following requirement of Section 27-514(d)(4), in part, is applicable to the Subdivision Section review:

**A Specific Design Plan hearing is required.....(2) that proper and final preservation, design and access to the former golf course land as permanent open space is approved as part of the Specific Design review; and...**

Specifically, to ensure "proper and final preservation, design and access to the former golf course land as permanent open space," the Planning Board finds that a protective easement should be required and recorded in land records, and that the liber folio of that easement be reflected on each final plat for the golf course property.

The Planning Board finds that the Specific Design Plan SDP-0608-01 is in substantial conformance with the approved Preliminary Plan 4-03027 and the legislation, relating to the elimination of the golf course with the conditions of approval.

17. **Transportation Planning**—The Planning Board finds that the subject application, to convert the planned golf course to open space, conforms to the approved subdivision plans, the approved comprehensive design plan and the approved basic plan from the standpoint of transportation planning, and that the area within this plan will be adequately served within a reasonable period of time with existing or programmed transportation facilities, or with transportation facilities to be provided as a part of the subject development.

The Planning Board also finds that the application proposes an extensive network of trails and other recreational facilities in lieu of the previously approved golf course. The Applicant's Proposed Recreational Facilities Exhibits indicate that 11,165 linear feet of new trails are being proposed. In addition to the trails, other recreational facilities proposed include a putting green, a pavilion and an open play area. The trail network proposed is comprehensive and is a significant recreational amenity, and supplements the other recreational facilities proposed. Appropriate setbacks from residential lots and structures will be required at the time of future revisions to the specific design plans. A small number of bicycle parking spaces are recommended at the recreation center. It appears that bicycle access to the recreation center will be via the access road off St. Mary's View Road. As designed, cyclists can go directly to the recreation center and proposed bicycle parking without having to travel through either of the parking lots. Due to the sharp turn from St. Mary's View Road onto the access road and the winding alignment of the access road, it is anticipated that traffic speeds will be slow at this location and compatible with bicycle use. Pedestrian access is provided via a sidewalk along the access road and a direct pedestrian link from St. Mary's View Road at the traffic circle. A marked crosswalk is recommended where this sidewalk intersects with the access road. The trails proposed as part of

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this application will supplement the trails and bikeways that were previously approved as part of Preliminary Plan of Subdivision 4-03027.

The trails will be subject to all standard timing and setback requirements. Typically, construction is required prior to adjacent residential lots, and trails must be a minimum of 20 feet from all residential lot lines and 25 feet from all residential structures. Many of the lots surrounding the subject application have already been developed, so it is important to ensure notification of homeowners of the proposed change in recreational facilities and the placement of the proposed trails. Areas where the trail is closest to residential lots appear to be Block Q, Lots 6–8 (Sheet 10) and Block A, Lot 13 (Sheet 7).

From the standpoint of non-motorized transportation, it is determined that this plan is acceptable, fulfills the intent of applicable master plans and functional plans, fulfills prior conditions of approval, and meets the finding required for a specific design plan as described in Section 27-274(a)(2)(C) of the Zoning Ordinance with the following conditions:

- a. Revise the plans to include a striped crosswalk where the walkway from the traffic circle along St. Mary's View Road intersects with the access road for the recreation center.
- b. Provide a bike rack(s) accommodating a minimum of ten bicycles at a location convenient to the proposed recreation center. The bicycle rack(s) shall be marked and labeled on the approved SDP.
- c. All trails shall be a minimum of 20 feet from all private lot lines and 25 feet from all dwelling units, excluding where trails intersect with the road network.

18. **Historic Preservation**—The Historic Preservation Section noted that the subject property at the Preserve at Piscataway is adjacent to two designated historic sites, Edelen House (84-023-06), 2401 Floral Park Road; and St. James Hill (84-001), 14200 Livingston Road, near the historic village of Piscataway. The Edelen House is included within The Preserve at Piscataway development and St. James Hill is adjacent to the development to the southwest. The Edelen House is subject to a number of conditions of approval associated with other development applications for The Preserve at Piscataway that have been met or are outside the scope of the subject specific design plan application. In addition, the subject property contains significant archeological features which are required to be protected under Sections 24-104 and 24-121(18) of the Subdivision Regulations.

A Phase I archeological survey was conducted on The Preserve of Piscataway property in 1996 and 1997 when Bailey's Associates, L.P. applied for a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers. The issuance of the Section 404 permit constituted an undertaking pursuant to the provisions of Section 106 of the National Historic Preservation Act of 1966, as amended, which requires that the federal agency take into account the effects on cultural resources. Fifty-four archeological sites were identified in the Phase I survey. Phase II

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investigations were conducted on fourteen of these sites. Of the fourteen, eight sites were determined to be eligible for listing in the National Register of Historic Places.

In May 2001, a Memorandum of Agreement was signed by the Advisory Council on Historic Preservation, the U.S. Army Corps of Engineers, and Bailey's Associates, L.P which states "In the event that the redesigned undertaking will have an adverse effect on archeological sites 18PR470b, 18PR476, 18PR478, 18PR482, 18PR496, 18PR521, and 18PR531, and prior to construction activity of any kind within any portion of any of these archeological sites, Bailey's Associates, LP shall submit a data recovery plan meeting the requirements listed in Appendix B of this MOA." The data recovery plan submitted by URS Group, Inc., stated that "As a result of the proposed engineering plans, Bailey's Associates, L.C., will avoid and protect four of the sites." The data recovery plan only covered the four sites that would be affected at that time, 18PR476, 18PR478, 18PR482, and 18PR496.

Two of the sites listed in the Memorandum of Agreement as eligible for the National Register, 18PR470b and 18PR521, lie within the area of the subject plan, SDP-0608. These sites have not been mitigated by Phase III archeological investigations. According to the Planning Board's *Guidelines for Archeological Review*, "Preservation in place is generally preferable for archeological sites with high interpretive value, and is encouraged by the Prince George's County Planning Board. The objective of preservation in place treatment is to safeguard the resource for future research, interpretation, and appreciation." Therefore, an archeological conservation easement should be placed on Sites 18PR470b and 18PR521 to protect them from future impacts.

The following conditions regarding the archeological sites on the subject property were approved by the Planning Board through PGCPB Resolution No. 07-143:

- 6. Prior to signature approval of the plans, one of the following determinations shall be made:**
  - a. If sites 18PR470b and 18PR521 are to be preserved in place, golf course plans shall be altered to avoid the site completely, or;**
  - b. If the sites cannot be avoided, a plan for burying the sites with fill to protect them from construction activities shall be provided by the applicant and shall be reviewed by the Historic Preservation and Planning Section.**
- 7. Prior to any ground disturbance or the issuance of grading permits, the applicant shall meet with the Army Corps of Engineers archeologist and the Prince George's County Planning Department archeologist to coordinate a plan for burying the sites with fill to protect them from construction activities. All parties shall discuss the impact to the site of any heavy machinery to be used in this operation and devise methods to minimize those**

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impacts. An archeologist shall be present at any pre-construction meetings with the Department of Environmental Resources for the golf course.

8. If sites 18PR470b and 18PR521 cannot be avoided or preserved in place by filling [as stated in 6(a) and (b) above], a Phase III research design shall be presented to the Army Corps of Engineers and to the Prince George's County Planning Department. Phase III data recovery investigations may not begin until the Army Corps of Engineers and Historic Preservation staff have given written approval of the research design. The Phase III (treatment/data recovery) final report must be reviewed and be determined to have complied with the Planning Board's *Guidelines for Archeological Review* prior to approval of any ground disturbing activities or the approval of any grading permits.

The plans provide for preservation in place, so this condition is no longer warranted.

10. A note shall be placed on the Final Plat that Archeological Sites 18PR470b and 18PR521 are located beneath the surface of fill material on this property and shall not be disturbed except with written approval of the Prince George's County Planning Board or designee and any other legal entity with jurisdiction over these sites.
11. Prior to approval of any ground disturbance within 50 feet of the area of 18PR470b and 18PR521, the applicant shall deliver all artifacts and appropriate associated documentation to the Maryland State Archeological Conservation Laboratory, and shall provide documentation of the State's acceptance of the materials to the M-NCPPC Planning Department's archeologist, unless such delivery is in conflict with any directive of the Memorandum of Agreement between the Army Corps of Engineers, the Maryland State Historic Preservation Office, and the applicant.

The conditions above continue to apply (except for Condition 8) and are reiterated in the conditions of approval for this case. In addition, the following conditions should be added to the approval of this plan:

- a. The applicant shall contact the Army Corps of Engineers, Baltimore District, and advise the Corps of their construction plans. If the Army Corps of Engineers determines that Sites 18PR470b and 18PR521 fall within the area of potential effects, the Corps will become the lead agency on any archeological mitigation of these sites.
- b. The eight-foot pathway to the south of Glassford Village shall be shown as a fill in this area, rather than cutting into the soil to avoid disturbance to Archeological Site 18PR470b.

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- c. The following note shall be placed on all final plats for the subject application:

“Archeological Sites 18PR470b and 18PR521 are located within this Property. These sites shall not be disturbed except with written approval of the Prince George’s County Planning Board or designee and any other legal entity with jurisdiction over them.”

19. This revision to the golf course SDP will not have impact on the previous finding that adequate provision has been made for draining surface water so that there are no adverse effects on either the subject property or adjacent properties.
20. This revision to the golf course SDP demonstrates that the regulated environmental features are preserved and/or restored to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5) of the Subdivision Regulations.
21. As required by Section 27-528(b) of the Zoning Ordinance, the specific design plan satisfies the site design guidelines as contained in Section 27-274, prevents off-site property damage, and prevents environmental degradation to safeguard the public’s health, safety, welfare, and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Type II Tree Conservation Plan (TCPIL-044-07-01), and further APPROVED Specific Design Plan SDP-0608-01 for the above-described land, subject to the following conditions:

1. Prior to certification of the specific design plan, the following revisions shall be made:
  - a. All proposed recreational facilities shall conform to the *Parks and Recreational Facilities Guidelines*.
  - b. Revise the plans to include a striped crosswalk where the walkway from the traffic circle along St. Mary’s View Road intersects with the access road for the recreation center.
  - c. Provide a bicycle rack(s) accommodating a minimum of ten bicycles at a location convenient to the proposed recreation center. The bicycle rack(s) shall be marked and labeled on the approved SDP.
  - d. All trails shall be a minimum of 20 feet from all private lot lines and 25 feet from all dwelling units, excluding where trails intersect with the road network.

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- e. The plans shall be revised to demonstrate conformance to the *Prince George's County Landscape Manual*, Section 4.6, Special Roadways and Section 4.9, Sustainable Landscaping, as appropriate.
  - f. Show the correct boundary of Parcel GC-1 as reflected on approved Preliminary Plan of Subdivision 4-03027.
  - g. Provide a note that the former golf course property shall be encumbered by an easement prior to any conveyance by the applicant that shall ensure the proper and final preservation of the golf course property as permanent open space.
  - h. Revise Specific Design Plan SDP-0318 for the community center and all other SDPs as appropriate to provide for the recreational facilities, including trail connections, as proposed on the exhibits for the twin entry ponds, Edelen Village South, Lusby Village, and Bailey's Village. The revised plans shall be reviewed and approved by the Planning Board or its designee.
2. Prior to the certification of Specific Design Plan SDP-0608-01, the Type II tree conservation plan (TCPII) shall be revised as follows:
- a. On all applicable sheets:
    - (1) The approval block shall be revised to reflect the correct TCP number format of TCPII-044-07-01.
    - (2) A landscape buffer, exclusive of the public utility easement, shall be delineated and labeled along the special roadways surrounding the site in accordance with Section 4.6 of the *Prince George's County Landscape Manual*. If tree conservation credit is proposed as afforestation or natural regeneration areas within the buffer, the plant material shall be large stock material consistent with the sizes required in the Landscape Manual.
    - (3) Wherever natural regeneration areas are proposed directly adjacent to residential lots, trails, stormwater management facilities, or roadways, a permanent tree protection device shall be provided adjacent to lots and behind the public utility easement along all roadways, and a planted edge of one-inch caliper whips placed 20 feet on-center or similar planting detail acceptable to the Environmental Planning Section (M-NCPPC) shall be provided to define the edge of the natural regeneration area adjacent to lots, trails, stormwater management facilities, and roadways.
    - (4) An area clear of woodland conservation shall be shown ten feet on either side of the centerline of the proposed eight-foot-wide pathway to define a maintenance



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area and allow for the possible delineation of a recreational use easement free of woodland encumbrance.

- (5) The plans shall delineate the 8-foot-wide hiker-biker trail placed in a 20-foot-wide clear zone, free and clear of woodland conservation.

b. On the coversheet:

- (1) General Note 13 shall be revised to reflect the correct TCPII number and a new general note shall be added to the plan which indicates that Danville Road, Floral Park Road, and Piscataway Road are designated historic roads in accordance with the 2009 *Approved Countywide Master Plan of Transportation*.
- (2) A note shall be added under the Specimen Tree Table which indicates that the specimen trees identified were field located.

c. On Sheet 2 of 15:

- (1) The overall worksheet shall be revised to include a line for "Off-site woodland preservation provided on this property" and "off-site afforestation/reforestation provided on this property" in both the calculation section and the provided sections of the worksheet. Appropriate numbers shall be provided if the TCPII plan includes a proposal for off-site woodland conservation banking.
- (2) The individual worksheet shall be revised to accurately reflect the woodland conservation requirement for the TCPII based on the most current overall worksheet.
- (3) The individual worksheet shall be revised to include a line for "off-site woodland preservation provided on this property" and "off-site afforestation/reforestation provided on this property" in the provided section of the worksheet. Appropriate quantities shall be provided if the TCPII plan includes a proposal for off-site woodland conservation banking.
- (4) On both the overall and individual worksheet, a line shall be provided for "afforestation/reforestation" and a line shall be provided for "natural regeneration" in the provided portion of the worksheet, and the appropriate quantities shall be provided.
- (5) The final calculation shown on the overall worksheet and the individual worksheet shall be the same.

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- (6) The custom seed mix proposed for natural regeneration areas shall be revised to eliminate sugar maple, and a fast growing pioneering major shade tree shall be substituted in the mix, such as tulip.
    - (7) Additional implementation details shall be provided for the tree protection signage detail, including dimensions and specification of the post material, and specifications for attachment of the signage to the post material in accordance with the Woodland and Wildlife Habitat Conservation Technical Manual.
  - d. On Sheet 11 of 15:
    - (1) Temporary fencing shall be shown along the boundary of the cultural resource area.
    - (2) Notes shall be added to the Plan that states "No construction, disturbance or seeding shall occur within cultural resource area.
  - e. Have the revised plan signed and dated by the qualified professional who prepared the plan.
- 3. Prior to certification of the specific design plan and the Type II tree conservation plan, a woodland conservation easement shall be recorded which provides perpetual protection for the woodland conservation areas approved with TCPH-044-07-01 to indicate the area of primary concern related to the Mount Vernon viewshed, and this area shall be shown on the TCPH and the SDP.
- 4. Prior to approval of the 570th building permit or conveyance of the golf course property, whichever comes first, the applicant and the applicant's heirs, successors, and/or assignees shall do the following:
  - a. Draft an easement to ensure the proper and final preservation of the golf course as permanent open space, to be approved by the Planning Board or its designee.
    - (1) The easement shall allow for appropriate recreational uses as set forth on the approved specific design plan.
    - (2) The easement shall allow for an appropriate access easement to the open space and recreational facilities to the benefit of the homeowners association (HOA) on land currently identified as golf course. The access easement shall contain a reverter clause in the event that the land is conveyed to the HOA.
    - (3) The easement shall set forth the rights, responsibilities including maintenance, and liabilities of the parties.
  - b. The approved easement shall be recorded in Land Records by the applicant.

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- c. Condition 4(a)(2) shall become null and void if an executed deed of conveyance between the applicant and the HOA for all of the golf course land is provided to the Planning Board or its designee, prior to the timeframe indicated above, for review and determination of adequate protection of the open space and access thereto.
5. Prior to approval of the 720th building permit, the applicant and the applicant's heirs, successors, and/or assignees shall have installed the recreational facilities identified in Finding No. 6, excluding full completion of the new trail, which amenity, shall be completed prior to the issuance of the 818th building permit.
6. Prior to approval of the 570th building permit, the applicant and the applicant's heirs, successors, and/or assignees shall obtain approval of final plats for the golf course property in accordance with Section 24-119(c) of the Subdivision Regulations and Specific Design Plan SDP-0608-01, and the final plats shall reflect:
  - a. The liber/folio of a document abandoning the covenants for the preferential membership, Liber 15709/Folio 678.
  - b. The liber/folio of an easement to ensure the proper and final preservation of the golf course as permanent open space.
  - c. The liber/folio of the access easement to the open space including the recreational facilities to the benefit of the homeowners association (HOA).
  - d. The liber/folio of the amended or new recreational facilities agreement, with the trigger for construction prior to the issuance of the 640th building permit, with appropriate bonding required.
  - e. Condition 6(c) shall become null and void if an executed deed of conveyance between the applicant and the HOA for all of the golf course land is provided to the Planning Board or its designee, prior to the timeframe indicated above, for review and determination of adequate protection of the open space and access thereto.
7. Prior to approval of the 818th building permit, the trail location shall be posted at 200-foot intervals and inspected by the M-NCPPC trails coordinator. The signage shall be approved by the trails coordinator prior to posting and shall, at a minimum, state "Future location of Pedestrian Trail." The signage shall be of durable materials, colors that will attract attention, and directed toward the lots and public street. The signage height shall be determined by the site grading to ensure visibility. This condition may be partially waived by the trails coordinator, at the request of the applicant, if specific site conditions make the trail posting unwarranted at certain locations.
8. Prior to issuance of the 818th building permit, Parcels GC-1, GC-2, GC-3, and GC-4 or portions thereof, shall be conveyed to the HOA subject to the following:

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- a. A copy of an unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Review Section of the Development Review Division (M-NCPPC) along with the final plat. The Deed of Conveyance shall provide for the proper and final preservation and access to the former golf course land as permanent open space and any reservation of rights necessary for development in accordance with approved plans.
  - b. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
  - c. The conveyed land shall not suffer the disposition of construction materials, discarded plant materials, refuse, or similar waste matter. The applicant shall certify that the land has been properly inspected and cleaned up.
  - d. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved specific design plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee may be required, unless identified in the Deed of Conveyance Reservation of Rights, to warrant restoration, repair, or improvements required by the approval process.
  - c. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division (M-NCPPC) prior to issuance of grading or building permits, in accordance with the approved specific design plan.
  - f. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management not otherwise included in the Deed of Conveyance Reservation of Rights shall be approved by the Development Review Division (M-NCPPC) in accordance with the approved specific design plan.
  - g. If the land is not conveyed to the HOA, Conditions 9(a) through (f) become null and void.
9. Prior to signature approval of the plans, one of the following determinations shall be made:
- a. If Sites 18PR470b and 18PR521 are to be preserved in place, the plans shall be altered to avoid the sites completely; or
  - b. If the sites cannot be avoided, a plan for burying the site(s) with fill for protection from construction activities shall be provided by the applicant and shall be reviewed by the

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Historic Preservation Section of the Maryland-National Capital Park and Planning Commission (M-NCPPC). The eight-foot pathway to the south of Glassford Village shall be shown as an area of fill, rather than cutting into the soil, to avoid disturbance to the Archeological Site 18PR470b.

10. Prior to any ground disturbance or the issuance of grading permits, the applicant shall meet with the Army Corps of Engineers archeologist and the Prince George's County Planning Department archeologist to coordinate a plan for burying the sites with fill to protect them from construction activities. All parties shall discuss the impact to the site of any heavy machinery to be used in this operation and devise methods to minimize those impacts. An archeologist shall be present at any pre-construction meetings with the Department of Environmental Resources.
11. A note shall be placed on the final plat that Archeological Sites 18PR470b and 18PR521 are located beneath the surface of fill material on this property and shall not be disturbed except with written approval of the Prince George's County Planning Board or its designee and any other legal entity with jurisdiction over these sites. The required note is:

"Archeological Sites 18PR470b and 18PR521 are located within this Property. These sites shall not be disturbed except with written approval of the Prince George's County Planning Board or designee and any other legal entity with jurisdiction over them."
12. Prior to approval of any ground disturbance within 50 feet of the area of Sites 18PR470b and 18PR521, the applicant shall deliver all artifacts and appropriate associated documentation to the Maryland State Archeological Conservation Laboratory, and shall provide documentation of the state's acceptance of the materials to the M-NCPPC Planning Department's archeologist, unless such delivery is in conflict with any directive of the Memorandum of Agreement between the Army Corps of Engineers, the Maryland State Historic Preservation Office, and the applicant.
13. The applicant shall contact the Army Corps of Engineers, Baltimore District, and advise the Corps of their construction plans. If the Army Corps of Engineers determines that Sites 18PR470b and 18PR521 fall within the area of potential effects, the Corps will become the lead agency on any archeological mitigation of these sites.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

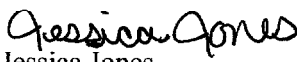
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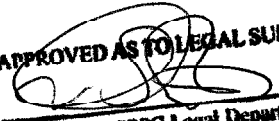
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Shoaff, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, January 10, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 31<sup>st</sup> day of January 2013.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:SL:arj

  
APPROVED AS TO LEGAL SUFFICIENCY  
M-NCPPC Legal Department  
Date 1/24/13