

RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on May 15, 2008, regarding Detailed Site Plan DSP-07034 for The Brick Yard, the Planning Board finds:

1. **Request:** The subject application includes two requests as follows:
 - a. For approval of a MARC Planned Community consisting of 51 single-family detached houses, 354 townhouses, 860 multifamily apartment units, approximately 29,787 square-foot retail/commercial and office uses.
 - b. For approval of a variance from the setback requirements pursuant to Section 27-475.06.02 for an existing 150-foot-high monopole, which contains communication antennas.

2. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	I-2/I-3	I-2/I-3 (MARC Planned Community)
Use(s)	Industrial (Clay mine, gravel pits and fill sites)	MARC Planned Community (Residential single-family attached and detached, multifamily; Retail/Commercial; Office and Flex Space)
Acreage	63.7	63.7
Building square footage/GFA	1,500	29,787
Total Number of Dwelling Units	-	1,265
Of Which Single-family detached	-	51
Single-family attached	-	354

Multifamily dwellings - 860

OTHER DEVELOPMENT DATA

	REQUIRED	PROPOSED
Total Parking Spaces	2,407	2,767
Mixed-use multifamily buildings	1,512	1,512
Parking Garage	-	1,257
Off-street surface parking	-	175
On-street surface parking	-	80
Restaurant	33	33
Community Center	31	31
Residential (SFDs and THs)	825	1,185
Garage	-	628
Off-street surface parking	-	177
On-street surface parking	-	380
Parking spaces for the handicapped	78	78
Total Loading Spaces	8	9
Mixed-use multifamily buildings	7	7
Community Center	-	1

Bedroom Percentage for Multifamily Dwelling Units

Unit Type	Proposed Percentage	Percentage Per Section 27-419
1 Bedroom	60 (521 units)	50
2 Bedrooms	38 (325 units)	40 (maximum)
3 Bedrooms	2 (14 units)	10 (maximum)
	100	100

ARCHITECTURAL MODELS

Single-family Detached Houses

Model	Base Finished Area (Sq. Ft.)
Unit 1	2,404 sq. ft. (Front- loaded one-car garage)
Unit 2	2,438 sq. ft (Rear-loaded two-car garage)

Townhouses

Model	Base Finished Area (Sq. Ft.)
16'	1,275 - 1,625 sq. ft. (Rear-loaded one-car garage)

18'	1,650 - 2,200 sq. ft. (Rear-loaded one-car garage)
20'	1,840 - 2,450 sq. ft. (Rear-loaded two-car garage)
22'	2,000 - 2,680 sq. ft. (Rear-loaded two-car garage)
24'	2,200 - 2,900 sq. ft. (Rear-loaded two-car garage)
24'	2,400 - 2,900 sq. ft. (Front-loaded two-car garage)

Multifamily Dwellings:

Building One (on Parcel C)	Base Finished Area	Number of Unit
Studio	540 sq. ft.	12
1 Bedroom	768 - 907 sq. ft.	229
2 Bedroom	1,152 – 1,294 sq. ft.	165
3 Bedroom	1,350 -1,500 sq. ft.	14
Building Two (on Parcel D)	Base Finished Area	Number of Unit
Studio	540 sq. ft.	12
1 Bedroom	744 - 816 sq. ft.	268
2 Bedroom	1,128 – 1,176 sq. ft.	160

3. **Location:** The subject property is located on the east side of Muirkirk Road, northeast of its intersection with Baltimore Avenue (US 1), in Planning Area 62 and Council District 1.
4. **Surroundings and Use:** The site is an existing industrial property used in the past as clay mine, gravel pits and fill sites. The site is bounded to the southwest by the right-of-way of Muirkirk Road; to the northwest by the CSX Railway track and the right-of-way of Baltimore Avenue; to the east by the right-of-way of Cedarhurst Drive; and to the northeast by other property in the Brickyard development in the I-3 (Planned Industrial/Employment Park) Zone. Further across Cedarhurst Drive to the east are properties in the R-80 (Single-family Detached Residential) and the R-O-S (Reserved Open Space) Zones; across Muirkirk Road to the southwest are properties in the I-2 (Heavy Industrial) and the C-M (Commercial Miscellaneous) Zones; and across the CSX tracks and Baltimore Avenue to the west are properties in the I-1(Light Industrial) and the I-3 Zones. To the southwest corner of the subject site is an existing MARC station and its associated parking lot in the I-2 Zone.
5. **Previous Approvals:** The 1990 Sectional Map Amendment for Subregion I retained the subject property in the I-2 and I-3 Zones. The site has been used for a clay mine, gravel pits and land fill sites. A preliminary plan of subdivision including a Type I Tree Conservation Plan is currently pending. The site also has an approved Stormwater Management Concept Plan No. 5249-2005-01.

6. **Design Features:** The subject site is in a triangular shape and is split by a PEPCO right-of-way near the middle of the property. Starting from the bottom side of the triangle, in the southeast quadrant of Muirkirk Road and the CSX railway tracks is the existing MARC station with a surface parking lot. The entire site is laid out in a grid street pattern starting from Muirkirk Road with the highest density multifamily section, with the medium density townhouse sections in the middle and the low density single-family detached section at the pinnacle of the triangular site. Two mixed-use buildings have been proposed to front onto the existing MARC station parking lot. The first floor of the two mixed-use buildings is composed of retail/commercial and flex office spaces that create an active storefront environment with pedestrian amenities and on-street parking. The two mixed-use buildings will have 860 multifamily dwelling units from the 2nd floor to the 5th floor and 1,257 parking spaces in the parking garage.

One spine road serves as the main boulevard through the site starting from Muirkirk Road between the existing parking lot and multifamily building one. This spine road divides the site into two distinct sections. The section close to the CSX railway track is composed of multifamily building two, a pad site for a future restaurant, a stormwater management pond as an amenity, a community center, 14 single-family detached houses, and one townhouse pod. The section east of the spine road close to Cedarhurst Drive is composed of multifamily building one and the rest of single-family detached and attached houses. A secondary street which is parallel to the spine road starting from multifamily building one gradually merges into the spine road at the northeast end of the property. An existing single-family detached house located cross the street from multifamily building one will be converted into a neighborhood coffee shop. Five distinct blocks have been designed for this part of the site. The four blocks south of the PEPCO right-of-way are around a larger central green with a row of twelve single-family detached houses along the street frontage of the central green. Four blocks of townhouses utilize rear-loaded alleys to create a very compact development pattern. Parking is provided through a combination of on-street and off-street spaces. An extensive pedestrian network consisting of sidewalks and trails links each block to the green open space scattered throughout the development. The portion of the site north of the PEPCO right-of-way is the top of the triangular site. This block of the development contains larger townhouses and most of the single-family detached houses. A multi-age playground is located in this section of the development. Another stormwater management pond is also located within this portion of the site.

Four types of units have been proposed for the two multifamily buildings. They are studio, one-bedroom, two-bedroom and three-bedroom units. Six types of townhouse units have been proposed for the development with a frontage width varying from 16 feet to 24 feet. See above Finding two for more information on the base finished square footage for each proposed model.

The two mixed-use buildings are designed with a small town main street theme. The two buildings have four to five stories with flat roofs. The buildings are finished with a combination of brick, cementitious panel and color vinyl siding. Brick and vertical landmark elements are applied at the corners and through-out the main elevations facing public rights-of-way. Various decorative trims have been used on the cornice to visually define roofs. A combination of various fenestration patterns has also been used on the elevations. The elevations for interior courtyards

show less brick and more cementitious panels and color vinyl siding the primary elevations of mixed-use building two are acceptable. However, the primary elevations of mixed-use building one should have more brick. A minimum 60 percent of brick should be provided. A portion of the proposed parking garage is shown without decoration on the elevation fronting CSX tracks. Staff recommends addition brick to be added on the column and additional roof treatments to be provided to tie the parking structure to the rest of the elevation.

For the townhouses, both gabled roofs and flat roofs have been used. In the flat roof model, the fourth stories are setback from the third floor to create a roof top terrace. Most of the townhouses are four stories in height. A combination of brick, cementitious panel and color vinyl siding is also employed to finish the townhouse models. Various architectural elements such as dentils, keystone arched windows, and box windows are appropriately used to achieve a rich visual effect. Townhouses with a frontage wider than 20 feet have two car garages. Since the townhouse section will occupy most of the central portion of the site, the townhouse elevations will be a dominant visual attribute of the development. The Urban Design staff recommends that a minimum 60 percent of the townhouse units should be finished with a brick façade in order to help achieve a higher quality development. A tracking table should be provided at the time of building permit.

Two types of single-family detached models have been proposed with this application. Unit one has one-car garage. But the garage is recessed deeply from the street and has a long driveway that will accommodate at least two parking spaces. Unit 2 has a two-car garage that is rear loaded. The elevations of the two single-family detached units employ various architectural elements such as cross-gable roofs, dentils, porches, etc. that are visually attractive. In addition to the asphalt shingle roof, a metal roof has also been used for the porch. The single-family detached units are finished with a combination of standard siding and brick. However, the primary finishing material is siding. A condition has been proposed to require that all front facades of the single-family detached units should be finished with brick. Additional brick or other masonry treatments should also be applied to the water table of the other elevations.

No deck or patio information has been proposed with this DSP. Given the layout and high density features of the site, there is limited space for addition of deck or patio by future home owners. Staff recommends the site plan be revised to show a possible deck or patio envelope for each single family dwelling unit prior to certification. Any future addition within the envelope approved with this DSP should be deemed acceptable without further review and approval.

A community center has also been proposed across the SWM pond from the restaurant pad site in the center portion of the site. The community center includes a club house of approximately 4,136 square feet, a swimming pool and a community garden area. The clubhouse is designed with three pavilion towers on the main elevations and is finished primarily with brick and pre-cast stone bands. The design in general is attractive.

This application includes only one primary identification sign with text of "The Brick Yard" to be located on a segment of brick wall around the main entrance to the site. However, no sign face

area information has been provided. A condition has been proposed to require the applicant to provide the sign face area to be reviewed and approved by the Urban Design Section prior to certification in accordance with Part 12 of the Zoning Ordinance. Future addition of any signs to this site requires a revision to the subject detailed site plan.

7. **Recreational Facilities:** A recreational facilities package has been proposed for this project. The package consists of the facilities for the multifamily component and the facilities for the single-family component. For multifamily building one, the recreational facilities include a 20 feet by 40 feet pool, two courtyard sitting areas including a picnic area of approximately 20,000 square feet, a kiosk and other indoor amenities totally, approximately 5,918 square feet. Total value of the proposed package for building one according to the applicant is estimated at \$930,000. For multifamily building two, the recreational facilities include a 32 feet by 64 feet pool, two courtyard sitting areas including picnic areas of approximately 19,000 square feet and other indoor amenities totally, approximately 6,180 square feet. Total value of the proposed recreational package for building two is estimated at \$970,000. For the single-family detached and attached sections, various recreational facilities have been proposed throughout the development and are located usually within a distance of no more than 300 feet from each unit. The recreational facilities include a 4,136-square-foot clubhouse; one-multi-age playground of about 15,000 square feet, two gazebos; numerous sitting areas within about 12 pocket parks; two grass volleyball courts; a 30 linear foot overlook/pier around the stormwater management pond in parcel H; and approximately 5,100 linear feet of 8-foot-wide trail. According to the information provided by the applicant, total value of the proposed recreational facility package for the single-family section is estimated at \$2.9 million. The quantity and location of the proposed recreational facilities have been shown on the recreational facility plan. In accordance with the *Parks and Recreation Facilities Guidelines*, for a development of 860 single-family dwelling units and 405 single-family attached and detached units in Planning Area 62, approximately \$1.25 million worth of recreational facilities are needed to serve this subdivision. The proposed recreational facility package exceeds the minimum required value for recreational facilities. In order to ensure that the proposed recreational facilities will be finished on time to be enjoyed by future residents, a timing condition that requires the completion of the facilities prior to issuance of building permits has been incorporated in the recommendation section of this report.

COMPLIANCE WITH EVALUATION CRITERIA

8. **Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements in the I-2 (Heavy Industrial) and I-3 (Planned Industrial/Employment Park) Zones for a MARC Planned Community and the site plan design guidelines of the Zoning Ordinance.
 - a. The subject application is in conformance with the requirements of Section 27-473 (b) of the Zoning Ordinance, which governs uses in the industrial zones. The proposed MARC planned community is a permitted use in the I-2 and I-3 Zones.
 - b. Section 27-475.06.05 MARC Planned Community has the following requirements for approval of a MARC planned community:

(b) A MARC Planned Community permitted (P) in the Table of Uses shall be subject to the following:

(1) Requirements.

(A) The open space facilities shall be planned to be well maintained, easily accessible, and well connected, and shall include:

(i) Pedestrian circulation to the MARC station from the MARC Planned Community and adjacent neighborhoods; and

(ii) Green spaces of scale and facilities appropriate for the immediate residents;

Comment: A comprehensive green open space and pedestrian network has been proposed with this site plan. The green open space is evenly distributed throughout the development and is within 300 feet of any dwelling unit. The entire site is laid out in a grid street pattern with sidewalks on both sides of the streets. A trail system is superimposed on the sidewalk network that links the MARC station, on-site private facilities and the open spaces of each block. The proposed recreational facilities and green open spaces are appropriate for the immediate residents in terms of location, scale and quantity. The future Home Owners' Association will be responsible for the maintenance of the facilities.

(B) The MARC Planned Community shall provide adequate private and/or public vehicular access to adjacent public rights-of-way to accommodate the traffic generated by the MARC Planned Community;

Comment: The proposed MARC Planned Community is located in the northeast quadrant of the intersection of Muirkirk Road and US 1. The entire site is designed in a grid street pattern with three northeast/southwest roadways running through the entire site. Of the three roadways, two are internal and one is a perimeter roadway, which intersects with the local roads within the existing subdivision to the east of the site. The three roadways will provide adequate vehicular access to the adjacent regional transportation network.

In addition, the site design of the MARC Planned Community provides a higher density close to the MARC station. The density drops as one

moves to the northeast end of the site. This density gradient will allow more trips generated closer to the existing road network.

(C) The MARC Planned Community shall include each of the following three (3) categories of uses:

- (i) Retail;**
- (ii) Office, research, or industrial;**
- (iii) Residential.**

Comment: The proposed MARC Planned Community includes all the above-mentioned uses. The two mixed-use buildings have first floor spaces for retail, office and commercial uses. An existing single-family detached house across the street from buildings one & two will be converted into a neighborhood coffee shop. In addition, a stand-alone pad site cross the street from building two will be for a future restaurant. Across the stormwater management pond from the restaurant site, a community center is proposed to serve the proposed subdivision. The residential use on the site consists of multifamily dwelling units, townhouses and single-family detached houses to meet the housing needs of citizens at different stages of life.

(D) Regulations restricting the height of structures, lot size and coverage, frontage, setbacks, density and intensity, dwelling unit types and other requirements of the specific zone in which the use is proposed shall not apply to uses and structures provided in this Section. The dimensions, percentages and development data shown on the approved Detailed Site Plan shall not be inconsistent with the area Master Plan or a Sector Plan and will constitute the regulations for development of a MARC Planned Community.

Comment: The subject DSP proposes an urban and walkable environment that is different from the adjacent development.

(E) Development within a MARC Planned Community shall be situated so that uses generating a minimum of fifty (50) percent of all trips proposed in the entire MARC Planned Community shall be located no further than one thousand three hundred twenty (1,320) feet (1/4 mile) from the center of the mass transit rail station platform.

Comment: The trip generation for the Brick Yard in the Traffic Study prepared by the Traffic Group shows that the total trips are 1,464. The proposed trip

generation within 1,320 feet (1/4 mile) of the center of the MARC station is 1,033, which is 70 percent of all trips proposed in the entire MARC Planned Community.

- c. There are several existing structures within the subject property. One of the existing structures is a 150-foot-tall monopole which contains communication antennas. This monopole is located in the I-2 Zone approximately 43 feet north of the common boundary line between the subject property and the adjacent land owned by the State of Maryland and currently used for parking for the MARC station. The location of the monopole is shown on the DSP. Although located on land included in the MARC Planned Community, a monopole is also a permitted use in the I-2 Zone, subject to the requirements of Section 27-475.06.02. In this case, an issue has arisen regarding the required setback of the monopole. Section 27-475.06.02 provides in pertinent part as follows:

The minimum setback from adjoining land in any Residential Zone (or land proposed to be used for residential purposes on an approved Basic Plan, or any approved Conceptual or Detailed Site Plan) or any dwelling unit shall be a distance equal to the height of the structure measured from the base to the property lines of such residentially zoned property or dwelling unit; otherwise, it shall be setback a minimum of forty (40) feet from any street and twenty (20) feet from any yard.

The existing monopole is located 58 feet from the lot line and 80 feet from the face of the closest proposed residential structure, a multifamily building located to the north of the monopole. Given the height of the existing monopole is 150 feet, a 92-foot variance is requested.

The setback required by Section 27-475.06.02 is based upon the assumption that the monopole could fall from its base and potentially impact an area equal to the height of the monopole. According to a letter from KCI Technologies, Inc. (Lee to Miler, April 17, 2008), the professional engineer retained by the applicant, the monopole on the subject property is designed in a manner that such a circumstance will not occur. Rather, the monopole is designed with crumple zones within it to prevent the entire 150-foot length from falling. Should the pole fail, it would bow or bend at a crumple zone, rather than failing at the base. The monopole has information on the pole indicating the manufacturer, the tower type and identifying the specific tower. The "crumple zone" of this specific tower is located 94.6 feet from the base, meaning that in the event of a high wind, only the top 55.4 feet would bend or bow. This top portion of the monopole would not separate from the bottom, due to the design and the wires located within the tower. Thus, the area of risk in the event of a catastrophic wind would be 55.4 feet. The bottom 94.6 feet is engineered with sufficient strength such that once the top of the pole crumples, the pole will not fall down. As provided by the site plan, the distance from the base of the pole to the lot line is 58 feet which is greater than 55.4 feet, and the distance

to the closet building is 80 feet. Therefore the residential structure is located outside of the crumple zone.

Per Section 27-230 of the Zoning Ordinance, a variance may only be granted when the Planning Board finds that:

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

Comment: The subject site does not have exceptional narrowness, shallowness, or shape, or exceptional topographic conditions. However, the monopole is currently located on the subject site under an existing lease that creates an extraordinary situation or condition for this site. The monopole is 150 feet in height measured from the base. The existing monopole was originally installed in 1997, at which time the property was being used as a heavy industrial manufacturing facility, consistent with its I-2 zoning. There was a brick manufacturing facility and other structures on the subject property. The monopole was located so as not to interfere with the industrial activities, and no consideration was given to the possible future use of the property as a transit oriented development.

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

Comment: The strict application of this setback requirement will result in either the building having to be relocated further from the MARC station, or its construction being delayed until the monopole lease expires or the monopole can otherwise be removed. The requirements for a MARC Planned community require at least 50 percent of the proposed traffic generation to be located within 1,320 feet from the transit rail station platform. Thus, there is a clear policy to concentrate as much density as close as possible to the MARC station. Imposing a setback that is clearly larger than is necessary to protect public health, safety and welfare would require the loss of a substantial number of units which would result from either re-designing the building to artificially create the setback or relocating the building and eliminating other units within the 1,320-foot radius from the transit station. Either prospect would create an undue hardship on the property owner and would be at odds with the purposes of a MARC Planned Community.

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

Comment: Development of a MARC Planned Community is consistent with the Master Plan and the General Plan recommendations for concentrating development around planned transit stops. The granting of the variance will facilitate, rather than delay or

prohibit such development. As result, the granting of the variance would not substantially impair the intent, purpose or integrity of the General Plan or Master Plan.

The Urban Design Section believes that the variance application has satisfied the above three criteria for approval. A variance is needed for this development because the pole was installed on the site when it was used for industrial purposes. At this time, denying the variance request would result in a practical difficulty for the owner of the property. The staff therefore recommends approval of the variance from the requirements of Section 27-475.06.02. However, when the lease expires in the future, the subject monopole should be removed from the site.

8. **Preliminary Plan of Subdivision 4-07053:** A preliminary plan of subdivision covering the subject site is currently pending with the Subdivision Section. According to Section 27-270, Order of Approvals, the preliminary plan of subdivision must be approved prior to approval of the detailed site plan. Any conditions applicable to the review of the DSP should be reflected on the plan prior to certificate approval of the DSP.
9. **Landscape Manual:** The application is subject to Section 4.1, Residential Requirements, Section 4.2, Commercial and Industrial Landscaped Strip Requirements, Section 4.3 Parking Lot Requirements, Section 4.4, Screening Requirements, and Section 4.7, Buffering Incompatible Uses of the *Landscape Manual* as follows:
 - a. The subject DSP proposes 51 single-family detached houses, 354 townhouses and 860 multifamily dwelling units. Section 4.1 (d) requires one major shade tree and one ornamental or evergreen tree per lot. Section 4.1 (f) requires one and a half shade trees and one ornamental or evergreen tree per dwelling unit to be located on individual lots and in common open space. The landscape plan portrays more trees graphically than are required. However, no landscape schedules are provided. A condition has been proposed to require the applicant to provide Section 4.1 (d) and 4.1 (f) schedules in accordance with the requirements of the *Landscape Manual* prior to certification.

Section 4.1 (g) requires a minimum one major shade tree per 1,600 square feet or fraction of green area provided. The proposed 860 multifamily dwelling units are located in two mixed-use building complexes without a clear defined green area surrounding them. The landscape plan shows several courtyards with heavy landscaping including many shade trees. However, no landscape schedule has been provided. A condition has been proposed to require this information prior to certification.
 - b. Section 4.2 requires a landscape strip be provided on the property adjacent to all public rights-of-way. In this case, the site is fronting on public rights-of-way in the areas where the two multifamily buildings are located. The landscape plan provides landscaping in the required areas. However, no specific schedules are provided. A condition has been proposed to require this information prior to certification.

- c. Section 4.3 (c) Interior Planting requires a certain percentage of the surface parking lot to be interior planting area. Several surface parking areas such as those areas around the two mixed-use buildings and the parking area of the community center are subject to Section 4.3 (c) requirements. The landscape plan has shown the required plantings. However, no schedule has been provided. A condition has been proposed to require this information prior to certification.
- d. Section 4.4 requires screening treatment for all loading areas. The landscape plan shows loading spaces around the mix-use building without providing screening details. A condition has been proposed to require this information prior to certification.
- e. The intent of a MARC Planned Community is to achieve a mixed-use, compact and high quality development. According to the requirements in other mixed-use and comprehensive zones, the requirements of Section 4.7 are normally either not applicable or reduced in the application in terms of width of the bufferyard and quantity of the planting units. The applicability of Section 4.7 is not defined in the MARC Planned Community regulations. Whatever is approved on the site plan constitutes the regulations for this site. In accordance with similar requirements in other comparable zones, only the boundary areas where the MARC Planned Community is adjacent to other uses are subject to Section 4.7 requirements. In this case, a PEPCO easement bisects the northwest portion of the property. A PEPCO easement as a public utility is defined as a medium impact use. When a medium impact use is adjacent to single family detached and attached uses, a Type C bufferyard is required. Type C bufferyard requires a minimum 40-foot-building setback and a landscaped yard of 30 feet to be planted with 120 planting units per 100 linear feet of property line. The landscape plan provides both internal streets and parking lots between the PEPCO right-of-way and the proposed townhouses, which are acceptable. All buildings are located more than 40 feet away from the utility easement except for one location where the building on Lot 302 is sited only 36 feet at its closest point from the utility easement. A condition has been proposed to require the applicant to relocate the building on Lot 302 to meet the 40-foot-setback requirement prior to certification. A schedule should also be provided for the landscape planting along both sides of the utility easement to ensure that screening is achieved.

In addition, a Section 4.7 bufferyard should be provided along the site's boundary area adjacent to CSX track right-of-way. The landscape plan shows ample space being retained in the area. The bufferyard should be designed with the consideration of the noise mitigation wall that will be installed in this area. The Section 4.7 schedule should also be provided.

10. **Woodland Conservation Ordinance:** This property is subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the gross tract area is in excess of 40,000 square feet; there is more than 10,000 square feet of existing woodland on site; and there is a previously approved Tree Conservation Plan TCPI/11/05 for this site.

- a. The Natural Resource Inventory (NRI) submitted with this application is concurrently reviewed with the Preliminary Plan of Subdivision 4-07053. No further information is required with this DSP.
- b. The Type II Tree Conservation Plan, TCPII/118/05-03 submitted with this application has been reviewed and was found to be in general conformance with the requirements of the Woodland Conservation and Tree Preservation Ordinance.

11. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. In a memorandum dated February 12, 2008, the Community Planning Division noted that the application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier. However, the planner noted that a MARC Planned Community is not the recommended land use in the 1990 Master Plan for Subregion One.

Comment: CB-21-2006, an Ordinance concerning industrial zones, has amended the use table of the industrial zones to allow a property in the I-1, I-2 and I-3 Zones to be developed as a MARC Planned Community in accordance with certain conditions. The proposed development in this DSP conforms to all requirements as discussed in the above Finding 8.

- b. In a memorandum dated January 18, 2007, the Subdivision Section staff noted that the development as contained in the subject DSP is a substantial alteration from the previously approved preliminary plan of subdivision for industrial uses/ cellular tower. Even though the approved preliminary plan of subdivision is still valid, a new preliminary plan is required. The planner also indicated that a new preliminary plan of subdivision has been filed for the property covered in the subject DSP. The new preliminary plan of subdivision is currently pending with the Subdivision Section.

Comment: As the Subdivision staff noted in the memorandum, the subject site has two record plats which created parcels and dedicated streets to public use based on the previously approved preliminary plan of subdivision. Since the development proposed on the site is significantly different from the one envisioned at the time of the original preliminary plan approval, a new plat should be recorded and the previously dedicated streets should also be vacated.

- c. The Transportation Planning Section in a memorandum dated May 6, 2008, noted that the proposed access and circulation to the site are acceptable. The Transportation Planning Section has determined that all access points from the MARC Planned Community site to existing Cedarhurst Drive and Muirkirk Road operate acceptably in accordance with level-of-service standards used by the Planning Board within the Developing Tier. This determination is made in consideration of conditions recommended as a part of the

preliminary plan which is reviewed concurrently with this DSP. The Transportation Planning Section concludes that necessary transportation requirements associated with the MARC Planned Community are determined to be met and further recommends approval of this DSP.

In a separate memorandum from the Transportation Planning Section dated April 24, 2008, on detailed site plan review for master plan trail compliance, the Trails Planner recommended approval of this DSP with six conditions that have been incorporated into the recommendation of this report.

- d. The Permit Section in a memorandum dated May 7, 2008, provided ten comments and questions regarding the DSP's compliance with the *Landscape Manual* and the Zoning Ordinance. Specifically, the reviewer comments on sign, existing structures such as cell tower and billboard, parking and on-site recreational facilities.

Comment: All existing structures will be removed except for the cell tower and an existing single-family detached house. The cell tower will be removed from the site when the lease expires. A variance application has been filed for the cell tower to be retained on this site prior to expiration of the lease. The existing single-family house will be reused as a community coffee shop. No exterior modifications should be allowed. Finding 9 above provides a comprehensive discussion on the DSP's compliance with the *Landscape Manual*. A bufferyard has been required for the areas of the site that is adjacent to the PEPCO easement and to the CSX tracks. The applicant provides only one primary identification sign with this DSP. Addition of any signs to this site requires a revision to the approved detailed site plan. Cedarhurst Drive, which has an 80-foot right-of-way in certain sections, is a sub-collector industrial roadway. Section 4.6 of the *Landscape Manual* is applicable only to any roadways with a classification as collector or above.

- e. The Environmental Planning Section in a memorandum dated May 6, 2008, indicated that the Environmental Planning Section has reviewed Detailed Site Plan, DSP-05070, and the Type II Tree Conservation Plan, TCPII/118/05-03, for the subject property, stamped as received on February 25, 2008. Staff has focused their efforts on reviewing the associated preliminary plan application which is concurrently reviewed with this DSP and have not provided comments on the DSP to date. However, the Environmental Planning Section recommends approval with conditions and will present the conditions at time of public hearing for this DSP.

During the Public Hearing on May 15, 2008, the Environmental Planning Section presented an addendum memorandum that provides specifically discussion on the noise issues related to the site. The Environmental Planning Section recommended approval of this DSP with three conditions in addition to the four conditions previously recommended on the memorandum dated May 6, 2008. The Planning Board included all seven conditions recommended by the Environmental Planning Section into the

conditions of approval with a slight modification of the Condition 1 (p) , which identifies approximately 525 feet along the western boundary of Parcel D where a solid brick wall of no more than 8 feet in height should be installed. Along the PEPCO easement no noise attenuation wall is required. The rest of the subject site's western property should be defined with a solid noise attenuation wall.

- f. The Department of Environmental Resources (DER) in a letter dated June 16, 2006, indicated that the subject site is consistent with approved stormwater management concept approval No. 14974-2006.
- g. The Verizon Communications Inc. in a memorandum dated January 4, 2008 noted that a 10-foot-wide public utility easement along all roads and in front of all dwelling units is required.
- h. The State Highway Administration (SHA), in a memorandum dated March 20, 2008, recommended approval of this DSP with certain road improvement suggestions including to convert the full movement entrance at the MARC station into a right-in/right-out entrance in the future and to improve the intersection of Muirkirk Road and Old Baltimore Pike/ Cedarhurst Drive.
- i. This DSP has also been referred to the Maryland Department of Transportation (MDOT). In a memorandum dated February 19, 2008, MDOT provided a discussion of various topics including the MARC investment plan, transit parking, track right-of-way, Green Line extension, connectivity, density and road access. MDOT also recommends additional right-of-way be preserved for segments in four directions at the intersection of Muirkirk Road and Cedarhurst Drive.
- j. The Health Department in a memorandum dated January 17, 2008, indicated that the review by the Health Department is required.

Comment: In response to the requirements of the Health Department, the applicant has submitted environmental site assessments (I and II). In a letter dated March 6, 2008 (Clare to Aylward), the Health Department further identified three tasks to be completed. A condition has been proposed in the recommendation section to provide evidence from the Health Department indicating that all requirements have been fulfilled prior to certification.

- k. The Prince George's Fire Department in a memorandum dated January 2, 2008, provided a standard memorandum that lists the applicable regulations regarding the required access for fire apparatus, fire lanes, the location and performance of fire hydrants.

Comment: The Urban Design Section reviewed the site plan along with the Fire Department staff and found that the proposed DSP is in conformance with the applicable regulations.

12. As required by Section 27-285 (b), the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use, and furthermore conforms to the requirements for a MARC Planned Community in the industrial zone.

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 (TCPII/118/05-03) and APPROVED Variance Application No. VD-07034, and further APPROVED Detailed Site Plan DSP-07034 for the above-described land, subject to the following conditions:

1. Prior to certificate approval of this Detailed Site Plan, the applicant shall
 - a. Reflect any applicable conditions attached to Preliminary Plan of Subdivision 4-07053 on the DSP.
 - b. Provide site plan notes as follows:
 - (1) The monopole shall be removed from the subject site when the existing lease expires. No additional lease shall be signed.
 - (2) The primary elevations facing the public right-of-way of mixed-use building one on parcel C shall have a minimum 60 percent of brick or stone finish.
 - (3) A minimum of 60 percent of the townhouses shall have 100 percent brick or stone facade, if the structure supports the use of brick or stone.
 - (4) All single-family detached houses shall have brick or stone front elevation, if the structure supports the use of brick or stone.
 - c. Provide the following information in accordance with the requirements of the *Landscape Manual*:
 - (1) Section 4.1 (d), (f) and (g), Section 4.2, 4.3, and 4.4 landscape schedules.
 - (2) Screening details in according to Section 4.4 requirements.
 - (3) A landscape schedule for the landscape strip along both sides of the PEPCO utility right-of-way to be reviewed and approved by the Urban Design Section as the designee of the Planning Board.

- (4) A landscape bufferyard along the site's boundary areas adjacent to CSX tracks in combination with the noise attenuation structure. The landscape schedule and the details of the noise mitigation structure shall be provided on the site plan.

The information shall quantify the amount of landscaping material provided within the development and shall constitute the regulations for this project. Any discrepancy between the planting materials provided and the requirements of the *Landscape Manual* shall not require approval of Alternative Compliance.

- d. Revise both the detailed site plan and landscape plan to relocate the building on Lot 302 to be a minimum of 40 feet away from the PEPCO utility right-of-way.
- e. Provide an eight-foot-wide sidewalk along the subject site's entire frontage of Muirkirk Road separated from the curb by a grass landscape strip, unless modified by Department of Public Works and Transportation (DPW&T).
- f. Provide a six-foot-wide sidewalk along the east side of the Cedarhurst Drive separated from the curb by a grass/landscape strip, unless modified by DPW&T.
- g. Provide minimum six-foot-wide sidewalks along both sides of the roads within Parcel B and Parcel F and along the south side (Building 2) of the road in Parcel E, unless modified by DPW&T.
- h. Provide the pedestrian connection from the subject site to the adjacent MARC property, including the crosswalk details and pedestrian safety features indicated on the submitted DSP, unless modified by Department of Public Works and Transportation.
- i. Provide standard sidewalks along both sides of all internal roads (excluding alleys) unless modified by DPW&T.
- j. Provide sign face area for the proposed primary identification sign.
- k. Provide additional brick on the columns of the parking garage on the elevation facing the CSX tracks. Additional roof treatments such as pre-cast band shall be used to blend the roof line of the garage into the rest of the elevation.
- l. Submit a TCPII that covers the entire site that includes both the north and south portions.
- m. Eliminate woodland conservation from lots.
- n. Eliminate the individual tree symbols within all of the reforestation areas.
- o. After all these revisions have been made, have the qualified professional who prepared the plan sign and date it.

- p. Revise the Phase II Noise Study to assume that the entirety of the western property line is adjacent to outdoor activity areas including the first-floor retail outdoor spaces in the multi-family units; the amenity pond and associated uses; the club house and associated uses; the outdoor areas in front of and around the townhouse units whose side units face the railroad; and the rear yard areas of the townhouses and multi-family units to the north of the PEPCO easement. The study shall also be revised to state the proposed wall materials, insert new Drawings 3 and 5 to eliminate the reference to “daytime noise contours” and eliminate any reference in the text to daytime noise levels.

The DSP shall be revised to reflect a solid noise attenuation wall along the western property line with the exception of approximately 525 feet along the western boundary of Parcel D and the PEPCO easement. Within the 525 feet along the western boundary of Parcel D, a solid brick wall of no more than 8 feet shall be installed. Along the PEPCO easement, no noise attenuation wall is required. The noise attenuation wall shall be designed as an amenity to the site and it must be integrated with the other proposed construction in such a way as to make it part of the overall concept. Transitions between the varying heights of the wall shall be gradual. The materials shall be actual brick or a brick-like façade that mimics real brick with regard to texture and color, subject to the approval of the Planning Director or designee. The proposed material shall be clearly referenced on the DSP. The DSP and TCPII shall reflect all of the recommendations of the revised noise study. The DSP and the TCPII shall show the location of the train whistle blast zone. If this zone is found to encumber the entire site this may be handled with a note on the plans.

- q. Obtain additional approval by the Planning Board or designee for any changes to the building facades, if the building facades change from what was provided to and approved by the Planning Board on May 15, 2008, because of a need to provide additional noise attenuation.
2. The applicant and the applicant’s heir, successors, and/or assignees shall complete the construction of the on-site recreational facilities and open them to the residents as follows:
 - a. Prior to issuance of the first Use and Occupancy permit for Multifamily Building 1 on Parcel C, recreational facility Number one, two and three as shown on the Recreational Facility Plan shall be completed.
 - b. Prior to issuance of the first Use and Occupancy permit for Multifamily building two on Parcel D, recreational facility Number four, five, six and seven as shown on the Recreational Facility Plan shall be completed.
 - c. Prior to issuance of the 225th building permit for single family dwellings, the community center and other amenities included in recreational facilities Number 8, 9 and 10 as shown on the Recreational Facility Plan shall be completed.

- d. Prior to issuance of the 16th building permit for the area containing Lots 218-245, recreational facility Number 11-pocket park as shown on the Recreational Facility Plan shall be completed.
- e. Prior to issuance of the 37th building permit for the area containing Lots 10-73, recreational facility Number 12 public terrace as shown on the Recreational Facility Plan shall be completed.
- f. Prior to issuance of the 13th building permit for the area containing Lots 22-46, recreational facility Number 13 pocket park as shown on the Recreational Facility Plan shall be completed.
- g. Prior to issuance of the 10th building permit for the area containing Lots 101-120, recreational facility Number 14 pocket park as shown on the Recreational Facility Plan shall be completed.
- h. Prior to issuance of the 168th building permit for the area containing Lots 10-301, recreational facility Number 15 central park as shown on the Recreational Facility Plan shall be completed.
- i. Prior to issuance of the 9th building permit for the area containing Lots 133-150, recreational facility Number 16 pocket park as shown on the Recreational Facility Plan shall be completed.
- j. Prior to issuance of the 11th building permit for the area containing Lots 198-217, recreational facility Number 17 public terrace as shown on the Recreational Facility Plan shall be completed.
- k. Prior to issuance of the 12th building permit for the area containing Lots 282-301, recreational facility Number 18 pocket park as shown on the Recreational Facility Plan shall be completed.
- l. Prior to issuance of the 14th building permit for the area containing Lots 378-401, recreational facility Number 19 pocket park as shown on the Recreational Facility Plan shall be completed.
- m. Prior to issuance of the 12th building permit for the area containing Lots 402-422, recreational facility Number 20 pocket park as shown on the Recreational Facility Plan shall be completed.
- n. Prior to issuance of the 75th building permit for the area containing Lots 302-426, recreational facility Number 21,22 and 23 as shown on the Recreational Facility Plan shall be completed.

3. At time of the building permit for the townhouses, a tracking table shall be provided.
4. No two single-family units located next to or immediately across the street from each other may have identical front elevations.
5. The developer, his heirs, successors and/or assignees shall display in the sales office all of the plans approved by the Planning Board for this subdivision, including all exterior elevations of all approved models, the detailed site plan, Landscape Plan, and plans for recreational facilities.
6. Prior to issuance of the first building permit, the applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210.00 to the DPW&T for the placement of "Share the Road with a Bike" signage, or provide proof of prior payment.
7. Prior to the approval of building permits for residential units that were identified in the Phase II Noise Study as needing building shell analyses for indoor noise mitigation, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of these structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.
8. Prior to the issuance of building permits, provide written evidence indicating that all requirements of the Health Department as set forth in the letter dated March 6, 2008 to Thomas J. Aylward, III have been fulfilled on those lots for which permits are requested, or that a plan to implement such measures during construction has been agreed to by the Health Department.

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.

* * * * *

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 Squire, seconded by Commissioner Cavitt, with Commissioners Squire, Cavitt, Vaughns and Clark voting in favor of the motion, and with Commissioner Parker absent at its regular meeting held on Thursday, May 15, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12th day of June 2008.

Oscar S. Rodriguez
Executive Director

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By Frances J. Guertin
Planning Board Administrator

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