

RESOLUTION

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

WHEREAS, a new Zoning Ordinance, Subtitle 27, Prince George’s County Code went into effect on April 1, 2022; and

WHEREAS, the subject property is within the Legacy Comprehensive Design (LCD) Zone; and

WHEREAS, pursuant to Section 27-1704(e) of the Zoning Ordinance, certain development applications may be reviewed and decided in accordance with the prior Zoning Ordinance; and

WHEREAS, therefore, the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed this application under the Zoning Ordinance in existence prior to April 1, 2022; and

WHEREAS, in consideration of evidence presented at a public hearing on November 17, 2022, regarding Comprehensive Design Plan CDP-9901-01 for Forest Hills, the Planning Board finds:

1. **Request:** The subject comprehensive design plan (CDP) application seeks to amend the conditions and plans to reflect the changes made by Zoning Map Amendment (Basic Plan) A-9895-C-01, relative to the removal of the Western Branch Trail through the west side of the property.
2. **Development Data Summary:**

	PREVIOUSLY APPROVED	APPROVED
Zone(s)	LCD (R-L)	LCD (R-L)
Use(s)	Single-Family Detached Residential	Single-Family Detached Residential
Gross Acreage	167.70	167.70
Dwelling Units	116	116

3. **Location:** The subject property is a large tract of land that consists of wooded and undeveloped land, located on both sides of MD 202 (Largo Road), approximately one mile north of its intersection with MD 725. The site is also in Planning Area 79 and Council District 6.
4. **Surrounding Uses:** The site is bounded by the Western Branch stream to the west and the Collington Branch stream to the east, with MD 202 down the middle. The subject property is

bordered to the north by the Brock Hall community and the Thorne Hills, Brock Hills, and Collington Estates subdivisions in the Residential Estate (RE) Zone; to the southwest by the Villages of Marlboro subdivision in the Legacy Comprehensive Design (LCD) Zone; to the east by the Beechtree subdivision in the LCD Zone; and to the south by woodlands and residential development in the Residential, Rural and RE Zones.

5. **Previous Approvals:** The site was rezoned from the prior Residential-Estate and Rural Residential Zones to the Residential Low Development (R-L) Zone during the 1993 *Approved Subregion VI Study Area Master Plan and Sectional Map Amendment (Planning Areas 79, 82A, 82B, 86A, 86B, 87A and 87B)*. The rezoning was contained in A-9895 (Prince George's County Council Resolution CR-34-1994).

On March 24, 2003, CDP-9901 and Type I Tree Conservation Plan TCPI-064-95 were approved by the Prince George's County District Council for a total of 116 single-family detached residential dwelling units on approximately 167 acres of land, with 8 conditions.

On January 15, 2004, Preliminary Plan of Subdivision (PPS) 4-03071 and TCPI-064-95-01 were approved by the Prince George's County Planning Board (PGCPB Resolution No. 04-06), subject to 23 conditions. The property was platted in accordance with the PPS, but no construction has commenced. A waiver of the Planning Board rules of procedure and a request for reconsideration of PPS 4-03071 were approved on July 30, 2020. The Planning Board allowed a limited reconsideration in order to revise the PPS. However, the request for reconsideration never proceeded to a merits hearing, and the Board never approved any specific revisions to the conditions related to the Western Branch Trail. The merits hearing has been pending since July 30, 2020, because CDP-9901 must be amended before reconsideration of PPS 4-03071 can be completed. Now that CDP-9901-01 has been scheduled for a Planning Board hearing date, the merits hearing for PPS 4-03071 may be scheduled for a Planning Board hearing. The merits hearing must be scheduled to occur after the hearing for this CDP amendment.

On April 10, 2006, Specific Design Plan SDP-0414 and associated Type II Tree Conservation Plan TCPII-081-05, for 112 single-family detached homes, was approved by the District Council subject to 10 conditions. No construction has been started on the property and this SDP is now invalid.

On April 26, 2021, the District Council approved an amendment to A-9895 (Zoning Ordinance No. 4-2021) to revise Conditions 15 and 16, which are relative to the Western Branch Trail.

6. **Design Features:** This CDP amendment proposes to remove conditions and revise the plans to reflect the changes made by A-9895-C-01, relative to the removal of the Western Branch Trail, through the west side of the property. This application will have no impact on the previously approved dwellings, open space, roadways, or any other site features. As discussed above, a subsequent reconsideration of PPS 4-03071 will further implement this change to trails and allow the applicant to file a new SDP to allow for the development of the property.

The findings of A-9895-C-01 noted that since the original approvals for the property, no master plan trail systems have been built or are planned to be built on the Western Branch, and the area has been significantly built out with several communities. Instead, there has been development of the Collington Trail system to the east, which is a more feasible north-south trail for the area and is currently being implemented. The Prince George's County Department of Parks and Recreation (DPR) agreed that, in lieu of construction of the Western Branch Trail, the applicant may pay a fee that DPR will use to connect portions of existing trails that are located east of the property, and which will better serve the larger community.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Map Amendment (Basic Plan) A-9895-C-01:** The District Council approved an amendment to A-9895 on April 26, 2021, with 18 conditions and 1 consideration. A-9895-01 revised Conditions 15 and 16 relative to the master plan trail and to provide a fee-in-lieu, as shown below. All other conditions of approval of A-9895 were carried forward and remain applicable to all subsequent approvals accordingly. CDP-9901 adequately addressed all previous conditions of approval and that remains unchanged with the limited scope of this amendment.

15. **In lieu of construction of the Western Branch Trail, improvements of the trails system to the east of the property shall be funded in part by the total payment of \$200,000 by the applicant, its heirs, successors and/or assignees to the Prince George's County Department of Parks and Recreation, which shall be indexed to the Bureau of Labor and Statistics Consumer Price Index (CPI) in 2021 dollars as of the payment date, and ultimately paid in full, prior to approval of a building permit exceeding 50 percent of the dwelling units approved with the Specific Design Plan for the site.**

16. **The location of the trail improvements funded by Condition 15 shall be solely at the discretion of the Prince George's County Department of Parks and Recreation provided the trail improvements are done in the Collington Trail system and in conformance with the Department of Parks and Recreation's Guidelines for Park and Recreational Facilities.**

These requirements will be enforced at the time of permitting, as stated.

8. **Prince George's County Zoning Ordinance:** This application has been reviewed for conformance with the requirements of the prior Zoning Ordinance governing development in the R-L Zone, as follows:
- a. **Uses:** The R-L Zone permits single-family detached residential dwelling units.
 - b. **Density Increments:** The applicable R-L Zone regulations allow for a base residential density of one unit per acre. Therefore, with 116 units proposed on approximately 167 acres, no density increments are necessary.

- c. **Development Standards:** A comprehensive set of development standards was included in the approval of SDP-0414 and will be included in any future SDP approval.
- d. Section 27-521, Required Findings for Approval in Comprehensive Design Zones, of the prior Zoning Ordinance, requires the Planning Board to find conformance with the following findings for approval of a CDP:

- (1) **The plan is in conformance with the Basic Plan approved by application per Section 27-195; or when the property was placed in a Comprehensive Design Zone through a Sectional Map Amendment per Section 27-223, was approved after October 1, 2006, and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;**

The proposed CDP amendment is in conformance with A-9895-C-01, which was already amended relative to the removal of the trail. No other changes to the development are requested.

- (2) **The proposed plan would result in a development with a better environment than could be achieved under other regulations;**

This finding was made with the previous approvals of the subject development. The limited scope of the proposed amendment does not change the previous finding that the proposed development will result in a better environment.

- (3) **Approval is warranted by the way in which the Comprehensive Design Plan includes design elements, facilities, and amenities, and satisfies the needs of the residents, employees, or guests of the project;**

This finding was made with the previous approvals of the subject development. The limited scope of the proposed amendment does not change the previous finding and an alternative facility to the Western Branch Trail has been coordinated with DPR, which will meet the needs of the project users.

- (4) **The proposed development will be compatible with existing land uses, zoning, and facilities in the immediate surroundings;**

This finding was made with the previous approvals of the subject development. The limited scope of the proposed amendment does not change the proposed development's compatibility with the existing land uses, zoning, and facilities in the surroundings.

(5) Land uses and facilities covered by the Comprehensive Design Plan will be compatible with each other in relation to:

- (A) Amounts of building coverage and open space;**
- (B) Building setbacks from streets and abutting land uses; and**
- (C) Circulation access points;**

The land uses and facilities covered by this CDP will be the same as approved in CDP-9901, except for the trail, which was already determined to be appropriate for removal, and previously found to meet this requirement.

(6) Each staged unit of the development (as well as the total development) can exist as a unit capable of sustaining an environment of continuing quality and stability;

This finding was made with the previous approvals of the subject development. The limited scope of the proposed amendment does not change the previous finding that each staged unit will be capable of sustaining an environment of continuing quality and stability.

(7) The staging of development will not be an unreasonable burden on available public facilities;

This finding was made with the previous approvals of the subject development. The limited scope of the proposed amendment does not change the previous finding that the staging of the development will not be an unreasonable burden on public facilities.

(8) Where a Comprehensive Design Plan proposal includes an adaptive use of a Historic Site, the Planning Board shall find that:

- (A) The proposed adaptive use will not adversely affect distinguishing exterior architectural features or important historic landscape features in the established environmental setting;**
- (B) Parking lot layout, materials, and landscaping are designed to preserve the integrity and character of the Historic Site;**
- (C) The design, materials, height, proportion, and scale of a proposed enlargement or extension of a Historic Site, or of a new structure within the environmental setting, are in keeping with the character of the Historic Site;**

This project does not include adaptive reuse of any historic site. Therefore, this criterion does not apply.

- (9) **The Plan incorporates the applicable design guidelines set forth in Section 27-274 of Part 3, Division 9, of this Subtitle, and except as provided in Section 27-521(a)(11), where townhouses are proposed in the Plan, with the exception of the V-L and V-M Zones, the requirements set forth in Section 27-433(d);**

This CDP will follow the comprehensive design guidelines, as approved in CDP-9901, governing the development of this project. There are no townhouses included in this application.

- (10) **The Plan is in conformance with an approved Type 1 Tree Conservation Plan;**

The CDP also includes TCP1-064-95-03, which has been revised to show the removal of the trail. Therefore, the CDP amendment is in conformance with the amended TCP1.

- (11) **The Plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130-(b)(5);**

The Planning Board previously approved impacts to regulated environmental features on this site under PPS 4-03071 and TCPI-064-95-01, and with SDP-0414 and TCPII-81-05. No additional regulated environmental features will be impacted by the proposed development. The Planning Board finds that the regulated environmental features have been preserved and/or restored in a natural state, to the fullest extent possible, in accordance with the requirement of Subtitle 24-130-(b)(5) of the prior Prince George's County Subdivision Regulations.

- (12) **Notwithstanding Section 27-521(a)(9), property placed in a Comprehensive Design Zone pursuant to Section 27-226(f)(4), shall follow the guidelines set forth in Section 27-480(g)(1) and (2); and**

Section 27-226(f)(4) of the prior Zoning Ordinance is the District Council's procedure for approving a comprehensive design zone application as part of a sectional map amendment. This provision is not applicable to the subject application because the property was rezoned through a zoning map amendment (basic plan) application.

- (13) For a Regional Urban Community, the plan conforms to the requirements stated in the definition of the use and satisfies the requirements for the use in Section 27-508(a)(1) and Section 27-508(a)(2) of this Code.**

This provision is not applicable to the subject application because it is not a regional urban community.

9. **Comprehensive Design Plans CDP-9901:** The District Council approved the original CDP-9901 on March 24, 2003, for a total of 116 single-family detached residential dwelling units on approximately 167 acres of land, with 8 conditions. The following is a list of the original CDP conditions relevant to the Western Branch Trail that the applicant would like removed:

1. Prior to certification of the Comprehensive Design Plan:

- a. **The Comprehensive Design Plan drawings and text shall be revised to incorporate the following:**

(11) eight-foot-wide asphalt hiker/biker trail along the Western Branch and a minimum of two 6-foot-wide asphalt connector trails providing access to the Western Branch from the proposed community as shown on the Department of Parks and Recreation Exhibit "A". One connection shall be oriented towards the southern end of the trail and the other connection shall be oriented towards the northern end of the trail.

(12) a ten-foot-wide equestrian trail along the Western Branch if determined to be feasible by the Department of Parks and Recreation at the time of Specific Design Plan.

3. Prior to approval of any final plats for this development, the applicant shall:

- d. **Submit three original, executed Recreational Facilities Agreements (RFA) for trail construction to the Department of Parks and Recreation for their approval at least three weeks prior to a submission of a final plat of subdivision. Upon approval by the Development Review Division, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland. The RFA shall state that the trail construction shall be completed prior to issuance of the 58th building permit.**

5. Prior to approval of the first Specific Design Plan for the development on the west side of the MD 202, the applicant shall:

- a. **Submit detailed construction drawings for trail construction to the Department of Parks and Recreation for review and approval. The recreational facilities on park property shall be designed in accordance with**

the applicable standards in the Parks and Recreation Facilities Guidelines. The trail construction drawings shall ensure the following:

- (1) dry passage for all the trails. If wet areas must be traversed, suitable structures shall be constructed. Designs for any needed structures shall be reviewed by Department of Parks and Recreation.**
 - (2) handicapped accessibility of all trails in accordance with applicable ADA guidelines.**
- b. If determined to be necessary by the Department of Parks and Recreation, submit construction drawings for a ten-foot-wide equestrian trail along the Western Branch. The trail shall be turf surfaced, the trees and branches shall be cleared a total of 12 feet in height along the trail. The location of the trail shall be determined by the Department of Parks and Recreation.**
 - c. Submit drawings showing the exact location of the two trail connections.**
- 7. No building permit shall be issued for the lots directly adjacent to the trail until the trail is under construction.**

As previously stated, the District Council and DPR, through the approval of A-9895-C-01, have agreed to allow the applicant to pay a fee-in-lieu of construction of the Western Branch Trail on the subject property. Therefore, the Planning Board approves the removal of the above conditions, as they are no longer required.

10. Prince George's County Woodland and Wildlife Habitat Conservation Ordinance: The project is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the subject property is more than 40,000 square feet in size, has more than 10,000 square feet of woodland on-site, and has previously approved tree conservation plans for the overall property. TCP1-064-95-03 was submitted with the CDP application.

- a. A Natural Resources Inventory Equivalency Letter (NRI-061-2018) was approved for this site on April 5, 2018, which is valid until April 5, 2023. The proposed work will not result in any significant changes to the limits of disturbance of the previously approved TCPI or create additional impacts to any regulated environmental features.
- b. This site is subject to the provisions of Subtitle 25, Division 2, of the WCO, and future development of the site must be in conformance with an approved tree conservation plan. Based on the TCP1 submitted with this application, this 167.70-acre site has a net tract area of 138.09 acres, which contains 95.23 acres of woodland and 22.0 acres of wooded floodplain, with a required woodland conservation threshold of 34.52 acres (25 percent). The woodland conservation worksheet proposes the removal of 13.69 acres of woodland, 12.89 acres in the net tract area and 0.80 acre in the floodplain area, for a woodland

conservation requirement of 38.55 acres. According to the TCP1 worksheet, the requirement is proposed to be met with 38.74 acres of woodland preservation on-site. Future development applications for the site will require ongoing conformance with the WCO.

11. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized, as follows:
 - a. **Community Planning**—The Planning Board adopts a memorandum dated September 30, 2022 (White to Kosack), included herein by reference, which provided that pursuant to Section 27-521(a)(1) of the prior Zoning Ordinance, this application conforms to the design guidelines or standards intended to implement the development concept recommended by the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*.
 - b. **Environmental Planning**—The Planning Board adopts a memorandum dated October 17, 2022 (Rea to Kosack), included herein by reference, which provided a comprehensive review of this CDP application’s conformance with prior conditions of approval, applicable environmental planning regulations, and governing plans. Relevant information has been incorporated into the findings above.
 - c. **Subdivision**—The Planning Board adopts a memorandum dated October 17, 2022 (Diaz-Campbell to Kosack), included herein by reference, which provided an analysis of this application’s request relative to the PPS 4-03071 approval, and the need to complete the reconsideration of the PPS, subsequent to this hearing. New final plats will not be required following approval of this CDP amendment. However, the applicant may wish to submit plats of correction to update the public recreational facilities agreement (RFA) recording reference shown in Note 1 of each plat, so that they show the liber/folio of the newly recorded RFA.
 - d. **Transportation Planning**—The Planning Board adopts a memorandum dated October 20, 2022 (Patrick to Kosack), included herein by reference, which provided a review of the background and prior approvals and plans governing this application. They indicated support of the removal of trail-related conditions and the fee-in-lieu of trail construction. Given the limited scope of this application, there are no additional master-planned bicycle and pedestrian facilities recommended at this time.
 - e. **Prince George’s County Department of Parks and Recreation (DPR)**—The Planning Board adopts a memorandum dated October 19, 2022 (Quattrocchi to Kosack), included herein by reference, in which DPR reviewed this CDP application for conformance with the governing prior approvals. The CDP amendment applies to trail location and development and permits the applicant to pay a fee-in-lieu to DPR in the amount of \$200,000 for trail improvements east of the property, along the Collington Branch. DPR staff has walked the proposed trail alignment along the Collington Branch and confirmed feasibility. The applicant proposes to convey approximately 105 acres of land to the

Maryland-National Capital Park and Planning Commission, as required by previous approvals. The conveyance parkland consists of floodplain, dense woodland, steep slopes, wetlands, and Marlboro clay soils. The applicant has requested use of certain portions of the proposed parkland for tree conservation purposes. DPR has agreed to allow the applicant to encumber portions of the parkland for tree conservation. The Park Planning and Development Division of DPR recommends approval of CDP-9901-01.

- f. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE)**—Comments regarding the subject project were not received from DPIE.
- g. **Prince George’s County Police Department**—Comments regarding the subject project were not received from the Police Department.
- h. **Prince George’s County Health Department**—The Planning Board adopts a memorandum dated September 27, 2022 (Adepoju to Bishop), included herein by reference, in which the Health Department provided comments relative to pedestrian access to the site and nearby recreational and food facilities. The proposed Western Branch Trail was deemed no longer necessary as part of the larger trail infrastructure in the area. Other pedestrian access issues were or will be addressed with the PPS and SDP.
- i. **Maryland State Highway Administration (SHA)**—Comments regarding the subject project were not received from SHA.

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 Type 1 Tree Conservation Plan TCP1-064-95-03 and further APPROVED Comprehensive Design Plan CDP-9901-01 for the above-described land, subject to the following condition:

- 1. All of the previous conditions of approval of Comprehensive Design Plan CDP-9901 remain in full force and effect, with the exception of the following conditions, which are deleted in their entirety: Conditions 1(a)(11), 1(a)(12), 3(d), 5, and 7 of the Prince George’s County District Council’s approval of CDP-9901.

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 Doerner, with Commissioners Washington, Doerner, and Shapiro voting in favor of the motion, and with Commissioners Bailey and Geraldo absent at its regular meeting held on Thursday, November 17, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 8th day of December 2022.

Peter A. Shapiro
Chairman



By Jessica Jones
Planning Board Administrator

PAS:JJ:JK:jah

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: November 28, 2022