



PGCPB No. 11-42

File No. 4-10025

R E S O L U T I O N

WHEREAS, Joseph Conte is the owner of a 33,541-square foot parcel of land known as Tax Map 12, in Grid C-2, and is also known as Parcel 120, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned One-Family Detached Residential (R-80); and

WHEREAS, on Joseph Conte, January 25, 2011 filed an application for approval of a Preliminary Plan of Subdivision for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-10025 for Conte Point was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on May 5, 2011, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on May 5, 2011, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan of Subdivision 4-10025, Conte Point for 2 lots, including a Variance to Section 27-442(e) with the following conditions:

- I. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Reflect Applicant Exhibit A as an inset on the preliminary plan.
 - b. Show dimensions on all lot lines.
 - c. Add note reflecting the variance approval of 5 feet from the required 25-foot front building set back.
 - d. Add note that Brandywine Road (MD 381) is a Historic Roadway.
 - e. Add a note stating that each lot shall have direct access to Brandywine Road.
 - f. Delineate the shed setback dimension.

2. Development of this site shall be in conformance with Stormwater Management Concept Plan 33629-2010-00 and any subsequent revisions.
3. At the time of final plat, the applicant shall grant a ten-foot public utility easement (PUE) along the public rights-of-way as delineated on the approved preliminary plan of subdivision. The PUE shall remain free and clear of site improvements unless express permission is granted by all of the affected utility companies.
4. The following note shall be included on the final plat of subdivision:

"Brandywine Road, adjacent to the subject property, is a designated historic road."
5. Prior to approval of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of the mandatory dedication of parkland for Lot 1 in accordance with the requirements of Section 24-135 of the Subdivision Regulations.
6. Prior to the approval of the building permit for Lot 1, by M-NCPPC, the driveway for Lot 1 shall:
 - a. Be designed and constructed with a turnaround capability in order to minimize the need for vehicles accessing these lots to have to back onto Brandywine Road (MD 381).
 - b. Not provide for access to Lot 2 from Brandywine Road over or through Lot 1.
7. Prior to the approval of the building permit for Lot 1, the applicant shall pay to Prince George's County the following share of costs for improvements to the Brandywine Road/Surratts Road intersection and the link of Surratts Road between Brandywine Road and Beverly Lane:
 - a. A fee calculated as $\$2,057/\text{residence} \times (\text{Engineering News-Record Highway Construction Cost Index at time of payment}) / \text{Engineering News-Record Highway Construction Cost Index for March, 2003}$.
8. At the time of final plat approval, the applicant shall dedicate right-of-way along Brandywine Road (MD 381) of 40 feet from centerline, as shown on the approved preliminary plan.
9. Provide a four-foot-wide sidewalk along the subject site's entire frontage of Brandywine Road unless modified by the Department of Public Works and Transportation (DPW&T).
10. The applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to DPW&T for the placement of bicycle warning signage along Brandywine Road, unless modified by DPW&T. A note shall be placed on the final record plat for payment to be received prior to the approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC) Planning Department of the first building permit.

11. Prior to the approval of the building permit for Lot 1 by M-NCPPC, the permit plan shall demonstrate a 10-foot-wide landscape strip along the north property line of proposed Lot 1 in accordance with the Applicant Exhibit A, as reflected on the approved preliminary plan.
12. Prior to the issuance of a permit for the development on Lot 1, a Public Safety Mitigation Fee shall be paid in the amount of \$3,780 (\$3,780 x 1 dwelling unit). The existing dwelling on Lot 2 is not included in this calculation because it does not generate any additional population beyond that which currently exists. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for All Urban Consumers. The actual fee to be paid will depend upon the year the grading permit is issued.
13. The final plat shall include a note of the approval of a variance for the front yard setback for the existing dwelling on Lot 2.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	R-80	R-80
Use(s)	Residential	Residential
Acreage	33,541 sq. ft.	33,541 sq. ft.
Lots	0	2
Outlots	0	0
Parcels	0	0
Dwelling Units:		
Detached	1 (to remain)	2 (1 new)
Public Safety Mitigation Fee	No	Yes (1 new)
Variance	No	Yes (Section 27-442(e))
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on February 18, 2011.

3. **Planning Board Hearing**—At the Planning Board hearing on May 5, 2011, the Planning Board specifically requested that the applicant revise Applicant's Exhibit A to include evergreens as a

part of the planting materials for a 10-foot wide landscape strip. This direction was preceded by a March 31, 2011 hearing in which the Planning Board provided a list of issues that should be addressed by the applicant on a revised plan. Staff worked with the applicant and the Urban Design Section which resulted in the revised plan (Applicant Exhibit A), as it related to the Planning Board's concerns. The list of issues that were identified by the Planning Board is as follows:

a. **House location and viewshed**

The Planning Board clarified that due to the potential stacking of dwelling units they wanted to mitigate the views from the proposed house (Lot 1) directly into the rear yard of the existing dwelling (Lot 2).

The Applicant's Exhibit A shows a potential location of the proposed dwelling unit on Lot 1. The house is located in an orientation that is not directly parallel to the street. By turning the dwelling to the southeast, the applicant has shown a site line that does not look directly into the rear yard of the existing dwelling unit.

b. **Provide planting and a buffer to mitigate the view into rear yard of existing dwelling unit (Lot 2).**

The Applicant's Exhibit A proposes a 10-foot-wide landscape strip on Lot 1 between proposed Lot 1 and Lot 2. Applicant Exhibit A presented at the Planning Board hearing did not include evergreens as an element in the landscape yard. The Planning Board directed that prior to signature approval the buffer depicted in Applicant Exhibit A, which includes 75 plant units as defined by the *Landscape Manual*, be revised to include evergreens while maintaining 75 plant units. The revised exhibit will be reviewed and approved by the Urban Design Section prior to signature approval, and be placed on the preliminary plan as an inset. The Planning Board finds that the number of plant units proposed with evergreens included, but not limited to, will mitigate the view of the rear yard of Lot 2 from Lot 1.

4. **Landscape Strip Lot 1**—Lot 1 has a consistent width of 54 feet extending from the street to the building area where the lot flares out, it is not a Flag Lot by definition. Due to the unique shape of Lot 1 and the existing dwelling located on proposed Lot 2 the issue of "stacking," which is typically seen in traditional flag lot development will occur. A 10-foot-wide landscape strip is required between Lot 1 and Lot 2 in accordance with Applicant Exhibit A to mitigate the view from Lot 1 to the rear yard of Lot 2.

As shown on the preliminary plan, Lot 1 has a lot width at the front streetline of 54.51 feet. Lot 2 has a lot width at the front street of 88.20 feet, located at the eastern corner of the site, with an access driveway to the street. The required lot width at the front street line in the R-80 Zone is 50

feet, the lot width at the front building line is 75 feet, both Lot 1 and 2 conform to these requirements.

The lot configuration orients the rear of the dwelling on Lot 2 towards the front of the dwelling on Lot 1, a configuration which provides for elements that are indicative of a flag lot design. In 2006, the County Council passed legislation (CB-4-2006) which no longer permits the use of flag lots, one issue being the stacking of dwellings in the rear of other dwellings. While a dwelling on Lot 1 can be oriented slightly away from the rear yard of the existing dwelling on Lot 2, the Planning Board did not require a specific condition for the location of the proposed dwelling. The Planning Board believes that a landscape strip will more appropriately address the issues, as raised by the Planning Board, and retains the flexibility for the applicant in house siting on Lot 1.

The Planning Board approves a 10-foot-wide landscape strip on Lot 1 along the northern property line between the two lots for 75 linear feet. The landscape strip shall begin 30-feet from the right-of-way known as Brandywine Road (MD 381) and continue along the property line ending 51-feet from the western property line, in accordance with Applicant Exhibit A.

The Planning Board finds that the landscape strip shall include 75 plant units including evergreen shrubs and/or trees to provide year around screening. Prior to approval of the preliminary plan of subdivision a revised landscape exhibit shall be submitted for review and approval by Urban Design Section and reflected as an inset on the approved plan (Applicant Exhibit A).

5. **Environmental**—The preliminary plan of subdivision, stamped as received on January 25, 2011, has been reviewed. This site was previously reviewed by the Environmental Planning Section for the approval of a Natural Resources Inventory, NRI/27/10. This application seeks the approval of a preliminary plan to subdivide the existing 33,541-square-foot parcel in the R-80 Zone into two single-family residential lots. This parcel currently has one existing dwelling.

Site Description

The subject property is located on Brandywine Road, approximately 700 feet southeast of the intersection of Brandywine Road and Thrift Road. The site is relatively flat and contains only a small portion of woodland (less than 1,000 square feet), which extends onto the property from a larger forest stand on an abutting property. The site drains into the Piscataway Creek watershed in the Potomac River Basin. The predominant soil type on the site is in the Aquasco-Urban land complex series. This soil type generally exhibits slight limitations due to somewhat impeded drainage. Based on information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this site. There are no floodplains, streams, Waters of the U.S., or wetlands associated with the site. There are no Marlboro clays or Christiana complex soils located on or adjacent to the subject property. The site has frontage along Brandywine Road, a designated historic road. This property is in the Developing Tier as delineated on the 2002 *Prince George's County Approved General Plan*.

Master Plan Conformance

The site is within Planning Area 81A of the 2009 *Approved Master Plan and Sectional Map Amendment for Subregion 5, Planning Areas 81A, 81B, 83, 84, 85A and 85B*. There are no specific environmental recommendations or design standards that require review for conformance. The environmental requirements for woodland conservation, noise, and stormwater management are addressed in the Environmental Review Section below.

Countywide Green Infrastructure Plan Conformance

The site does not contain any regulated areas, evaluation areas, or network gaps within the designated network of the *Approved Countywide Green Infrastructure Plan*. There are no sensitive environmental features or sensitive habitat areas in this location.

Environmental Review

The site has a signed natural resources inventory (NRI) that was submitted with the application. The site contains less than 1,000 square feet of woodland and does not contain any regulated environmental features. The elements of the signed NRI are correctly reflected on the preliminary plan.

This property is not subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the gross tract area of the subject property is less than 40,000 square feet in size and has no previous tree conservation plan (TCP) approvals. A standard letter of exemption was issued for the site on December 10, 2010. A Type 1 tree conservation plan was not submitted with the review package and is not required.

Subtitle 25, Division 3: Tree Canopy Coverage Ordinance requires a minimum percentage of tree canopy coverage (TCC) on all applications that require a tree conservation plan or letter of exemption. Properties that are zoned R-80 are required to provide a minimum of 15 percent of the gross tract area in tree canopy. The gross tract area is 0.77 acre resulting in a requirement for TCC of 0.12 acre.

The site has frontage along Brandywine Road, a master-planned collector roadway that is not regulated for noise. The proposed residential use is located far enough from possible nearby noise sources (4,950 feet west of Branch Avenue, a master-planned freeway) so that noise is not an issue.

Brandywine Road was designated a historic road in the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B*, and has the functional classification of a collector. Any improvements within the right-of-way of an historic road are subject to approval by the Department of Public Works and Transportation (DPW&T) in accordance with the *Design Guidelines and Standards for Scenic and Historic Roads*. Roadway design criteria will be determined for the roadway by DPW&T with consideration for any scenic or historic features of the site which may be identified.

At the time of permit, the frontage of this subdivision will be required to comply with the requirements of the 2010 *Prince George's County Landscape Manual*, Section 4.6 for buffering development from special roadways. In the Developing Tier, a minimum 20-foot-wide buffer is required to be planted with a minimum of 80 plant units per 100 linear feet of frontage, excluding driveway openings, and plant materials are required to be located outside of the public utility easement (PUE). Alternative compliance may be required because of the existing location of the dwelling on Lot 2 is located within the buffer, which should be provided outside the 10-foot public utility easement.

According to the *Prince George's County Soil Survey*, the principal soil on this site is in the Aquasco-Urban land complex series. This soil type generally exhibits slight limitations due to somewhat impeded drainage.

6. **Community Planning**—The applicant proposes retention of the existing dwelling and construction of a new single-family dwelling. In accordance with the General Plan, this application is located in the Developing Tier and will not violate the General Plan's residential growth goal for the year 2025, an objective that calls for the Developing Tier to capture no more than 66 percent of the County's residential growth by that time.

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.

The proposed land use is consistent with the 2009 Approved Subregion 5 Master Plan and Sectional Map Amendment.

7. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, the applicant should pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.
8. **Trails**—The preliminary plan was reviewed for conformance with the *Countywide Master Plan of Transportation* (MPOT) and the approved Subregion 5 master plan.

The subject property is located on Brandywine Road. Sidewalks are currently present along some sections of Brandywine Road. On-road bicycle lanes and sidewalks are recommended in the approved Subregion 5 master plan to accommodate bicyclists and pedestrians between Piscataway Road (MD 223) and Robert S. Crain Highway (MD 301). It is recommended that bikeway warning signage be placed on Brandywine Road by the applicant to implement the bikeway until such time that DPW&T constructs on-road bicycle lanes.

A sidewalk should be constructed by the applicant along the entire property frontage of Brandywine Road to implement the area master plan recommendations. It is recommended that this sidewalk be shown on the preliminary plan.

Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities would exist to serve the proposed use as required under Section 24-123 of the Subdivision Regulations.

9. **Transportation**—The proposed development would generate a net of 1 AM and 1 PM weekday peak-hour vehicle trip as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

The lot being created would have direct driveway access to Brandywine Road, a master plan collector facility. In consideration of the current and planned function of the roadway, and given current operating speeds and traffic volumes, the driveway onto proposed Lot 1 should utilize a turnaround capability in order to minimize the need for vehicles accessing this lot to back onto Brandywine Road. It is noted that proposed Lot 2 is developed; however, the lot will require a new driveway since the existing driveway is actually on proposed Lot 1. Therefore, the new driveway onto Lot 2 should also be constructed with a turnaround capability. However, because the permit for the construction of a new driveway for Lot 2 will not be referred to M-NCPPC, staff has not included a condition, it is only a recommendation to the property owner.

Brandywine Road is a master plan collector facility. The plan reflects right-of-way dedication of 40 feet from centerline, which is appropriate.

The traffic generated by the proposed preliminary plan would impact the intersections of Brandywine Road/Thrift Road and Brandywine Road/Surratts Road. These intersections are signalized.

Analysis of Traffic Impacts

The subject property is located within the Developing Tier, as defined in the *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

- **Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.
- **Unsignalized intersections:** *The Highway Capacity Manual* (Transportation Research Board) procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The critical intersections of Brandywine Road/Thrift Road and Brandywine Road/Surratts Road are programmed for improvement with 100 percent construction funding within the next six years in the current Prince George's County Capital Improvement Program. It is noted, however, that full funding is dependent upon developer contributions for a portion of the funding.

No current turning movement counts are available at the critical intersections. Nonetheless, previous findings made by the Planning Board have indicated that the capital project improvements are particularly important to traffic circulation in the area. Widening the link of Surratts Road eastward from Brandywine Road is anticipated to provide an outlet for traffic using Brandywine Road. Also, the intersection improvements at Brandywine Road/Surratts Road that are a part of this CIP project are important because this intersection currently operates poorly in both peak hours. A number of recent developments in the area, the most recent being Surratts Crossing (Preliminary Plan of Subdivision 4-05073), have received a common set of conditions requiring a pro rata payment toward improvements to Brandywine and Surratts Roads. These improvements are needed to attain LOS D or better operations at the critical intersections. The Department of Public Works and Transportation (DPW&T) administers a funding arrangement that allows developments in the area to pay a fair share of the cost of the improvements.

Due to the limited trip generation of this site, the Planning Board deems the site's impact at this location to be de minimus. Notwithstanding the site trip generation, there are capital improvements in the immediate area that are to be fully funded only with developer contributions. While only consisting of one new lot, the applicant is required to contribute in the same way that other developments in the area have been so required and pay a fair share prior to the issuance of the building permit for Lot 1.

The site is adjacent to Brandywine Road, which is shown on the master plan as a collector facility with a right-of-way width of 80 feet. Dedication of 40 feet from centerline along Brandywine Road is shown on the submitted plan.

10. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 2	High School Cluster 3
Dwelling Units	2 DU	2 DU	2 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	.32	.26	.28
Actual Enrollment	3,867	5,564	7,081
Total Enrollment	3,867.32	5,564.26	7,081.28
State Rated Capacity	3,761	5,430	7,792
Percent Capacity	102.8%	102.5%	90.9%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,299 and \$14,227 to be paid at the time of the issuance of each building permit.

The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

11. **Fire and Rescue**—This preliminary plan of subdivision includes construction of a single-family dwelling on one residential lot, and one existing dwelling to remain.

This preliminary plan is within the required seven-minute response time for the first due fire station, Clinton, Company 25, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Pursuant to County Council Resolution CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn fire and rescue personnel staffing levels.

The Fire/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005.

Capital Improvement Program (CIP)

The Prince George's County Capital Budget and Program for Fiscal Years 2011–2016 provides funding for a replacement Fire/EMS station at 14201 Brandywine Road.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the “Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure.”

12. **Police Facilities**—The Subdivision Regulations requires a specific police response time adequacy test for residential preliminary plans of subdivision. However, the adequacy test for police facilities is not recommended to the existing single-family dwelling unit on proposed Lot 2 because the existing dwelling unit does not generate additional population beyond that which currently exists on the site, and the dwelling is to remain. The subject property is located in Police District V, 6707 Groveton Drive, Clinton, MD 20735.

The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on January 25, 2011.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Cycle 1	1/2010-12/2010	11 minutes	9 minutes
Cycle 2	2/2010-1/2011	11 minutes	9 minutes
Cycle 3	3/2010-2/2011	11 minutes	9 minutes

The response time standard of 10 minutes for emergency calls was not met while 25 minutes for nonemergency calls was met on March 21, 2011.

The rolling twelve-month average for response times in District V were provided for three monthly cycles following the acceptance of the subject application. If the response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls are not met by the third monthly cycle of response time reports and the actual response times for both emergency and/or nonemergency calls do not exceed 20 percent above the required response times, the applicant may offer to mitigate. The applicant may enter into a mitigation plan with the county and file such plan with the Planning Board. The Planning Board may not approve the preliminary plan until a mitigation plan is submitted and accepted by the county. If the response times for emergency calls and/or nonemergency calls are greater than 20 percent above the required emergency response time, the applicant may not mitigate.

In accordance with County Council Resolution CR-78-2005, the applicant may offer to mitigate by paying a mitigation fee per dwelling unit, providing in kind services or pooling resources. In this case the applicant has agreed to enter into mitigation agreement and to pay the mitigation fee for

Lot 1. The applicant submitted the mitigation agreement prior to the Planning Board hearing of May 5, 2011, which requires a fee prior to a grading permit for Lot 1.

The Police Chief has reported that the department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005.

Pursuant to County Council Resolution CR-69-2006, Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005. Pursuant to County Council Resolution CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn police personnel staffing levels.

13. **Health Department**—The Prince George's County Health Department, Environmental Engineering Program, has reviewed the preliminary plan of subdivision and has no comments to offer.
14. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan 33629-2010-2008-00, was approved on January 31, 2011, with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.
15. **Historic**—A Phase I archeological survey is not recommended on the above-referenced 0.77-acre property located at 10211 Brandywine Road in Clinton, Maryland. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies, or federal permits are required for a project.

The subject property has no effect on identified historic sites, resources, or districts.

16. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider must include the following statement in the dedication documents established on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a ten-foot PUE along the public rights-of-way as requested by the utility companies. The PUE must remain free and clear from any site improvements including parking.

17. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2008 *Water and Sewer Plan*, as adopted by County Council Resolution CR-91-2008, placed this property in water and sewer Category 3, Community System, and will therefore be served by public systems.

18. **Access**—Proposed Lots 1 and 2 shall have direct access to Brandywine Road. The access driveway for the existing dwelling unit is shown on proposed Lot 1, Section 24-128(a) of the Subdivision Regulations requires that lots have “...frontage on and direct vehicular access to a public street...” The Permit Review Section has indicated that the reconstruction of the driveway serving Lot 2 will not be referred to M-NCPPC for approval. Therefore, staff is recommending a condition which would require that the building permit for Lot 1 ensure that access to Lot 2 through Lot 1 not be provided. A shared access is not permitted by the Subdivision Regulations in this case, and was not requested by the applicant by the submittal of a variation request.
19. **Variance to Section 27-442(e), Table IV of the Zoning Ordinance**—The subject property is part of a larger parcel which the applicant is proposing to subdivide into two single-family lots. The existing house will be located on proposed Lot 2. Subtitle 24 of the County Code requires dedication of abutting land that is shown on an applicable county master plan or transportation plan as part of the road right-of-way. In this case, Brandywine Road has an 80-foot-wide right-of-way, and the applicant must provide 40 feet of dedication from the centerline of the street. After dedication, the existing dwelling unit will be approximately 20 feet from the right-of-way, which is five feet less than the requirements of the R-80 Zone as set forth in Section 27-442(e), Table IV of the Zoning Ordinance. As a result, a variance of five feet is required, was submitted by the applicant, and supported by staff.

Applicant Variance Request from Section 27-442(e), Front Yard depth

Section 27-442(e), Table IV, of the Zoning Ordinance establishes minimum yard depth along a street for lots in the R-80 Zone of 25 feet. Variances may be granted provided the application meets the following criteria, contained within Section 27-230(a) of the Prince George’s County Code.

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

The property does have exceptional shape and extraordinary conditions. The property meets the minimum lot area and is in fact larger than the required lot area of 9,500 square feet. Proposed Lot 2 will be approximately 16,721 square feet. The variance requested is for proposed Lot 2, which is proposed at 16,721 square feet with an existing single-family residence that is to remain. A variance of 5 feet from the requirement of a 25-foot building restriction line is required to validate the location of the existing residential dwelling on proposed Lot 2. The front corner of this existing house is 44 feet from the existing dedication for Brandywine Road, but an additional dedication will make the house 20 feet from the ultimate right-of-way line. This creates an extraordinary situation not generally applicable to other properties in the area.

- (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;**

If the variance is not granted it would require the owner to demolish all or a portion of existing dwellings that have a positive benefit to the existing neighborhood given the age and architectural merit of each of the existing houses.

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

The granting of this variance will not substantially impair the intent, purpose, or integrity of the 2009 Approved Subregion 5 Master Plan and Sectional Map Amendment. The plan retained the R-80 Zone for the site. The applicant proposes single-family detached residential units; this is in conformance with the R-80 zoning recommendation of the 2009 Approved Subregion 5 Master Plan and Sectional Map Amendment.

The Planning Board grants a variance of 5 feet from the minimum front yard setback of 25 feet for the existing dwelling on Lot 2.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

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 Cavitt, seconded by Commissioner Vaughns, with Commissioners Cavitt, Vaughns and Parker voting in favor of the motion, and with Commissioners Clark and Squire absent at its regular meeting held on Thursday, May 5, 2011, in Upper Marlboro, Maryland.

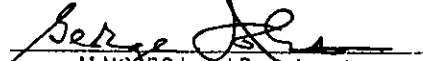
Adopted by the Prince George's County Planning Board this 2nd day of June 2011.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:JT:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 5/26/11