



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 11-61

File No. 4-10026

R E S O L U T I O N

WHEREAS, Property & Industry Coordinators is the owner of a 1.23-acre parcel of land known as Tax Map 97 in Grid F-3, is also known as Lot 32, said property being in the 6<sup>th</sup> Election District of Prince George's County, Maryland, and being zoned Rural Residential (R-R); and

WHEREAS, on March 21, 2011, Patrick Ricker filed an application for approval of a Preliminary Subdivision Plan for 3 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-10026 for Middleton Lane 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 June 2, 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 June 2, 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 Type 1 Tree Conservation Plan TCP1-002-11, and further APPROVED Preliminary Plan of Subdivision 4-10026, Middleton Lane, including Variance(s) to Section 27-442(b), Section 27-442(h), and 25-122(b)(1)(G) for 3 lots with the following conditions:

- I. Prior to signature approval of the subject preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Add a note regarding approval of variances.
  - b. Revise Note 15 to indicate fee-in-lieu for Lots 2 and 3 only.
  - c. Indicate existing building to remain.
  - d. Remove yard setbacks from the Development Standard table.
  - e. Revise the development standards to reflect an 80-foot lot width at the front building line.

2. Prior to signature approval of the preliminary plan, the Type 1 Tree Conservation Plan, TCP1-002-11, shall be revised as follows:
  - a. Show the standard line-type for the delineation of the limit of disturbance (LOD) and add the standard symbol for the LOD to the legend.
  - b. Remove the soils lines from the plan and remove the symbol from the legend.
  - c. Add the soils table from the approved natural resources inventory (NRI) to the plan.
  - d. Remove the shading for the steep slopes from the plan and remove the symbol from the legend.
  - e. Revise the Specimen Tree table to add a disposition column for the specimen tree (to be removed).
  - f. Revise the plan to remove the "forest saved not counted" areas and remove the symbol from the legend. Add this area to the total calculation of woodland cleared and revise the worksheet accordingly. Remove the symbol for forest cleared area from the legend. Only the symbol for "Cleared off-site area" should be shown on the plan.
  - g. Label the notes in the left hand corner of the plan "Type 1 Tree Conservation Plan Notes."
  - h. Revise the woodland conservation worksheet to reflect the current fee-in-lieu rate of \$0.90 per square foot.
  - i. Have the revised plans signed and dated by the qualified professional who prepared them.
3. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-002-11). The following note shall be placed on the final plat of subdivision:

"This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-002-11 or most recent revision), or as modified by the Type 2 Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."
4. The final plat shall contain the following notes:

- a. Development of this site shall be in conformance with Stormwater Management Concept Plan 20895-2010-01 and any subsequent revisions.
  - b. Reflect the approval of the variance for lot size and density.
5. At the time of final plat, the applicant shall dedicate a ten-foot public utility easement (PUE) along the public right-of-way as delineated on the approved preliminary plan of subdivision.
6. Total development shall be limited to uses which generate no more than 2 AM and 2 PM weekday peak-hour trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
7. At the time of final plat approval, the applicant shall dedicate right-of-way along the frontage of Middleton Lane and Middleton Court as shown on the approved preliminary plan of subdivision.
8. 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 Lots 2 and 3 in accordance with the requirements of Section 24-135 of the Subdivision Regulations.

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-R	R-R
Use(s)	Single-family dwelling	Single-family dwellings
Acreage	1.23	1.22
Lots	1	3
Outlots	0	0
Parcels	0	0
Dwelling Units	1 (to remain)	3 (1 Existing)
Public Safety Mitigation Fee	No	No
Variance	No	Yes (Section 27-442(b), Section 27-442(h)) and Section 25-122(b)(1)(G)
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 April 15, 2011.

3. **Community Planning**—The 2002 *Prince George's County Approved General Plan* designates the subject property within the Developed Tier, just south of the Capital Beltway (I-95/495). The vision for the Developed Tier is to strengthen an existing neighborhood through infill residential development and to preserve, restore and enhance sensitive features, and provide open space. This preliminary plan is consistent with the General Plan Development Pattern policies for the Developed Tier by maintaining a pattern of low-density housing and providing infill development. This approval will not violate the General Plan's residential growth goal for the year 2025.

The 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* retained this property in the R-R (Rural Residential) Zone. This application conforms to the residential low-density land use (up to 5.7 dwelling units per acre); however, the application does not meet the minimum lot size or density required in the R-R Zone.

This application is in the R-R Zone, which requires a minimum lot size of 20,000 square feet. The applicant proposes one standard lot (20,000-square-foot) and two smaller lots (13,564 and 14,486 square feet). The applicant has requested variances from the required minimum lot size for two lots and, as a result, exceeds the minimum density of 2.44 dwelling units by an additional 0.27 dwelling units. The request for reduced lot area and higher density, while consistent with the developed properties to the south, may not be consistent with the lots to the north. The Guidelines for Residential Zoning (page 106) states, "...To maintain the unique character of established residential neighborhoods, it is recommended that existing residential zoning patterns be

maintained in the SMA as the base density zoning. Comprehensive design zone applications requesting higher density zoning may be approved where compliance with the tier development policies of this plan can be demonstrated..." The lotting pattern approved is consistent with the lotting pattern to the south.

4. **Environmental**—A signed Natural Resources Inventory, NRI/013/10, for the subject property has been received and reviewed. The project is subject to the Woodland and Wildlife Habitat Conservation Ordinance, effective September 1, 2010, because there are no previous tree conservation plan approvals.

This 1.23-acre property in the R-R Zone is located on the southeastern side of Middleton Lane at the intersection of Dalton Street and Middleton Lane at the terminus of Middleton Court. Approximately 70 percent of the site is wooded. According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Beltsville, Croom, Marr, and Urban Land Complex soil series. Marlboro Clay is not found to occur on the site. There are no streams, wetlands, or 100-year floodplain on the property. There are no nearby noise sources that would generate noise levels above 65 dBA Ldn on the subject property. The proposal is not expected to be a noise generator. The property is in the Henson Creek watershed of the Potomac River basin and in the Developed Tier as reflected in the General Plan. The June 2005 *Approved Countywide Green Infrastructure Plan* does not identify any portion of the site within the designated network. According to information obtained from the Sensitive Species Review GIS layer provided by the Natural Heritage Program, Maryland Department of Natural Resources, no rare, threatened, or endangered species are known to occur in the vicinity of this property. No designated scenic or historic roads will be affected by the development.

#### **Master Plan Conformance**

The master plan for this area is the 2006 approved master plan and sectional map amendment for Henson Creek-South Potomac which retained the subject property in the R-R Zone. There are no specific environmental recommendations or design standards that require review for conformance. The subject property is not within or near areas designated in the plan as locally significant green infrastructure features. The environmental regulations regarding woodland conservation and stormwater management are addressed in the Environmental Review section below.

The proposed subdivision is in conformance with the applicable environmental provisions of the Henson Creek-South Potomac master plan.

#### **Conformance with the Green Infrastructure Plan**

The green infrastructure network, identified in the 2005 *Approved Countywide Green Infrastructure Plan*, is a comprehensive framework for conserving significant environmental ecosystems in Prince George's County. The network is divided into three categories: regulated areas, evaluation areas, and network gaps of countywide significance.

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

#### **Environmental Review**

A signed Natural Resources Inventory, NRI-013-10, was submitted with the review package. The plan shows that there are no streams, wetlands, or 100-year floodplain on-site. The forest stand delineation (FSD) notes one forest stand totaling 0.88 acre with one specimen tree. The information on the NRI is correctly shown on the preliminary plan and the Type 1 tree conservation plan (TCP1).

The property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the site is greater than 40,000 square feet in area, contains more than 10,000 square feet of woodland, and does not have a previously approved tree conservation plan. A Type 1 Tree Conservation Plan (TCP1-002-11) was submitted with the review package.

The worksheet currently shows the total woodland conservation requirement as 0.39 acre; however, when the conditions contained herein are addressed, the requirement will be 0.65 acre.

To meet the woodland conservation requirements, a hierarchy of priorities has been established in Division 2 of Subtitle 25, in Section 25-121(b). This site does not contain priority areas for preservation. In addition, the lot sizes are below one acre in size. Per Section 25-122(b)(1)(F) of the County Code, woodland conservation cannot be provided on lots one acre or less in size. The requirement of 0.65 is proposed to be satisfied by paying a fee-in-lieu which is in conformance with Section 25-122(d)(8) because the amount is one acre or less.

The plan currently shows the woodlands to remain on the subject lots as not counted toward meeting the requirements because the lots are less than one acre in size. Because the lots are also proposed to be less than 20,000 square feet in size, Section 25-122(b)(1)(K) requires that the woodland be counted as cleared for tree conservation calculations so that future property owners are not burdened with a requirement to revise the tree conservation plan if they propose to fully utilize the lot. The plan will be revised to count the remainder of the woodlands as cleared.

A total of one specimen tree was identified on the site: a 34-inch diameter willow oak. Information on this tree is provided in a table on the TCP1. Specimen trees are defined as trees having a diameter at breast height of 30 inches or more; trees having 75 percent or more of the diameter at breast height of the current champion of that species; or a particularly impressive or unusual example of a species due to its size, shape, age, or any other trait that epitomizes the character of the species. The specimen tree on the site is not considered a "champion tree" because it is not the largest of its species in the country, state, or county.

A variance request to Section 25-122(b)(1)(G) of the Woodland and Wildlife Habitat Conservation Ordinance was received on May 5, 2011 for the removal of the one specimen tree. Specimen Tree

ST-1 is located within the proposed right-of-way (ROW) of the extension of Middleton Court and will be removed when the future road is constructed.

The Planning Board approved the removal of one specimen tree as found below.

Tree for which Variance is Requested	Comment	Recommendation
Tree #ST-1	Within the proposed right-of-way for a road extension to Middleton Court	Support variance for removal

Section 25-119(d) contains six required findings [**text in bold below**] to be made before a variance from the Woodland and Wildlife Habitat Conservation Ordinance can be granted. An evaluation of this variance request with respect to the required findings is provided below.

**(A) Special conditions peculiar to the property have caused the unwarranted hardship;**

The Department of Public Works and Transportation (DPW&T) is requiring the roadway configuration shown on the preliminary plan. Preservation of the specimen tree within the proposed right-of-way is not possible because of this requirement. The access proposed is for the two newly proposed lots. The existing dwelling has access from Middleton Lane.

**(B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;**

If other constrained properties encounter trees in similar locations on a site, the same considerations would be provided during the review of the required variance application.

**(C) Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants;**

If other constrained properties encountered trees in similar locations on a site, the same considerations would be provided during the review of the required variance application.

**(D) The request is not based on conditions or circumstances which are the result of actions by the applicant;**

The removal is due to the Department of Public Works and Transportation requirement for the right-of-way extension.

**(E) The request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and**

The request to remove the tree does not arise from any condition on a neighboring property.

**(F) Granting of the variance will not adversely affect water quality.**

Granting the variance to remove the specimen tree will not directly affect water quality because the reduction in tree cover due to one specimen tree removal is minimal. Specific requirements regarding stormwater management for the site will be further reviewed by the Department of Public Works and Transportation.

The subject property must demonstrate compliance with the tree canopy coverage requirements contained in Division 3 of Subtitle 25. The requirement in the R-R Zone is 15 percent of the gross tract area. The subject property is 1.23 acres resulting in a tree canopy requirement of 0.18 acre. The property will be able to meet the tree canopy requirement through woodland saved on the site. It should be noted that although the areas cannot be counted toward meeting the woodland conservation requirements, the wooded areas can be counted toward meeting the tree canopy coverage requirements.

An approved Stormwater Management Concept Letter and Plan (20895-2010) was submitted. The concept approval number is correctly noted on the preliminary plan and the TCPI. The concept plan shows dry wells with each proposed structure. The tree conservation plan shows the proposed dry wells and provides adequate clearing for construction.

According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Beltsville, Croom, Marr, and Urban Land Complex soil series. Croom soils are only problematic when associated with extensive areas of steep slopes. There is an area of steep slopes associated with Croom soils at the eastern end of the property. The proposed limit of disturbance extends into this area. Beltsville soils are highly erodible and may have areas with perched watertables and impeded drainage. This information is provided for the applicant's benefit.

5. **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, 20895-2010-01, was approved on August 18, 2010 and is valid until August 18, 2013. The approved concept plan has conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with the approved plan.
6. **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 for Lots 2 and 3 because the land available for dedication is unsuitable due to its size and location. Lot 1 is exempt from mandatory dedication because the proposed lot is improved with an existing dwelling unit.
7. **Trails**—The proposed preliminary plan was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and/or the appropriate area master/sector plan in order to implement planned trails, bikeways, and pedestrian improvements.



The site is within the area covered by the 2006 *Approved Master plan and Sectional Map Amendment for the Henson Creek South Potomac Planning Area* and is subject to the MPOT.

The Planning Board requires that plans conform to Section 24-123 of the Subdivision Regulations and, in terms of bikeway and pedestrian facilities, land for bike trails and pedestrian circulation systems shall be shown on the preliminary plan and, where dedicated or reserved, shown on the final plat when the trails are indicated on a master plan, the County Trails Plan, or where the property abuts an existing or dedicated trail, unless the Planning Board finds that previously proposed trails are no longer warranted pursuant to Section 24-123.

There are no sidewalks in the vicinity of the subject property. Middleton Court has curb and gutter, but does not have sidewalks; Middleton Lane and other adjacent roads are open section roads. The applicant has provided sufficient dedication of right-of-way for a sidewalk, but no sidewalk is recommended at this time because there are no other sidewalks on Middleton Court. The nearest master planned on-road bikeways and trails occur on Branch Avenue (bike lanes), Henderson Road (shared roadway), Brinkley Road (bike lanes), and the Henson Creek Stream Valley Trail that terminates at Temple Hills Road. These facilities do not directly affect the subject application.

8. **Transportation**—The proposed development would generate a net of 2 AM and 2 PM weekday peak-hour vehicle trips as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

#### **Analysis of Traffic Impact**

The subject application proposes subdividing the property into three lots. One lot is developed, and the net of two lots is proposed for development. Therefore, it is determined that the proposed subdivision would generate a net of 2 AM and 2 PM weekday peak-hour vehicle trips.

The site of this application is located in the southeast quadrant of the intersection of Dalton Street and Middleton Lane. The eastern portion of the property is located at the terminus of Middleton Court. The site is 1.23 acres in the R-R Zone. The application shows right-of-way dedication along a portion of the property’s frontage on Middleton Lane and Middleton Court. Proposed Lot 1, with an existing residence, will continue to have access to Middleton Lane. The two proposed new lots would access Middleton Court. The subject property is located within the Developed Tier as defined in the 2002 *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) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better;
- **Unsignalized intersections:** *The Highway Capacity Manual* 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 intersection of Brinkley Road and Middleton Lane is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation "Consolidated Transportation Program" or the Prince George's County "Capital Improvement Program."

No recent turning movement counts are available at the critical intersection of Brinkley Road and Middleton Lane. Due to the limited trip generation of this site, the Prince George's County Planning Board deemed the site's impact at this location to be de minimus. Therefore, the Planning Board finds that 2 AM and 2 PM peak hour trips will have a de minimus impact upon delay in the critical movements at the Brinkley Road and Middleton Lane intersection.

Based on the preceding findings, it is determined that adequate access roads will exist as required by Section 24-124 of the Subdivision Regulations.

9. **Schools**—The preliminary plan was reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution CR-23-2003, and staff concluded the following:

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School Cluster #4	Middle School Cluster #2	High School Cluster #2
Dwelling Units	3 DU	3 DU	3 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	.48	.39	.42
Actual Enrollment	3,867	9,899	7,081
Total Enrollment	3,867.48	9,899.39	7,081.42
State Rated Capacity	3,761	11,571	7,792
Percent Capacity	102.8%	85.5%	90.9%

Source: Prince George's County Planning Department, M-NCPPC, January 2010

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 the Capital Beltway (I-95/495) 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 the surcharge to be adjusted for inflation

and the current figures for FY 2011 are \$8,299 and \$14,227 to be paid at the time of 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.

10. **Fire and Rescue**—The proposed preliminary plan has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(C) and (E) of the Subdivision Regulations.

**Residential**

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

First Due Fire/EMS Company #	Fire/EMS Station	Address
29	Silver Hill	3900 Old Silver Hill 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."

**Capital Improvement Program (CIP)**

There are no Capital Improvement Program (CIP) projects for public safety facilities proposed in the vicinity of the subject site.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the "Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities."

11. **Police Facilities**—The subject property is located in Police District IV, 5135 Indian Head Highway, Oxon Hill, Maryland 20745. 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 Maryland-National Capital Park and Planning Commission (M-NCPPC) Prince George's County Planning Department on December 2, 2010.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date: 3/21/2011	3/2010 – 2/2011	10 Minutes	11 Minutes
Cycle 1		Minutes	Minutes
Cycle 2		Minutes	Minutes
Cycle 3		Minutes	Minutes

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on March 21, 2011. 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) regarding sworn police personnel staffing levels.

12. **Water and Sewer**—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* placed this property in water and sewer Category 3, Community System, and will therefore be served by public systems.

13. **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 should include the following statement in the dedication documents recorded 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 right-of-way as requested by the utility companies.

14. **Historic**—A Phase I archeological survey is not recommended on the above-referenced 1.23-acre property located at 5800 Middleton Lane in Temple Hills, Maryland. The existing residence on the property was constructed in 1955. The probability of archeological sites within the subject property is low. However, the applicant should be aware that there is one previously identified archeological site, 18PR890-a 20th century domestic site, and one county Historic Site, 76B-017 Old Bells Methodist Church and Cemetery, located within one mile of the subject property.

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.

15. **Variance to Section 27-442(b) and Section 27-442(h), Table IV of the Zoning Ordinance—**  
The existing parcel is rectangular in shape and improved with one existing single-family detached residence. It has 100 feet of frontage on Middleton Lane, as well as frontage on Middleton Court, a 50-foot right-of-way which stubs into the southern property line approximately 345 feet east of Middleton Lane and 145 feet west of its eastern property line. As it is presently designed, the existing residence would be located on a 20,000-square-foot lot with frontage on and direct access to Middleton Lane, the remainder of the property would be bisected by a 50-foot-wide extension of the Middleton Court right-of-way from south to north creating the two additional lots. The preliminary plan also requires the applicant to dedicate an additional five feet of right-of-way along Middleton Lane.

The applicant submitted three exhibits, which further explain its justification for the variances. Applicant Exhibit "A" is a subdivision layout for two lots which does not need either variance. However, as discussed below, this two-lot subdivision lotting pattern is not consistent with the existing community to the south and creates numerous other practical difficulties for the applicant, as stated in the variance findings. The second exhibit referenced is the proposed preliminary plan for three lots that is the subject of the variance applications. Applicant Exhibit "B" represents an alternative three-lot subdivision that terminates the extension of the Middleton Court right-of-way at or near the southern property line which was not approved by the Planning Board.

A variance of 6,436 square feet to allow a lot size of 13,564 square feet for Lot 2, and variance of 5,514 square feet to allow a lot size of 14,486 square feet for Lot 3 was approved. A variance to allow the density to exceed the maximum 2.17 dwellings per acre was also requested. A variance of 0.27 dwellings per acre was granted by the Planning Board.

The Planning Board understands that, in this instance, the variance for density and lot size are codependent, and granting one variance without the other would not provide the applicant with an approval of the three-lot subdivision. Denial of either of the variances would result in the denial of the subdivision. Not every lot size variance requires a variance from density because, in other instances, the property might have the necessary area for density but the configuration requires a lot size variance.

**Variance Request from Section 27-442(b), Lot Size and Section 27-442(h) Density—**Section 27-442(b), Table IV, of the Zoning Ordinance establishes minimum lot size in the R-R Zone of 20,000 square feet. Section 27-442(h), Table IV, of the Zoning Ordinance establishes maximum density in the R-R Zone of 2.17 dwellings per acre. Variances may be granted provided the application meets the following criteria contained within Section 27-230(a) of the Prince George's County Code. The findings below are applicable for both variances.

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

The subject parcel is exceptionally narrow; it is 100 feet wide and 535.5 feet deep. The location of the Middleton Court right-of-way also creates an extraordinary condition. For a two-lot subdivision where both lots meet the technical standards, once the 20,000-square-foot lot (100 feet by 200 feet) which fronts onto Middleton Lane is established, the remainder of the property must gain access from Middleton Court. If the remainder (second lot) were to be undivided, the "front" of the lot would be the long southern boundary (which includes the street frontage and two side yards of abutting lots), the rear of the lot would be the long northern boundary and the depth of the lot would only be 100 feet. The lot that would be created would be exceptionally shallow in relation to its width compared to other properties.

The first two-lot option is shown on Applicant Exhibit "A" and requires no variances. One 20,000-square-foot lot fronts on Middleton Lane and the second lot, approximately 33,500 square feet, fronts on and is accessed by Middleton Court. Both lots would meet the minimum lot size requirements for the R-R Zone. As stated above, this second lot would be very wide and shallow. The 25-foot-deep front yard would face Middleton Court and the 20-foot-deep rear yard would run along the northern property line resulting in a usable lot area for house construction of 55 feet. The result would be a lot that would have two large side yards and a comparatively shallow rear yard with little or no privacy. Due to zoning restrictions in the R-R Zone regarding locating certain types of accessory structures in anything other than a rear yard, these expansive side yards would be virtually unusable by the property owner. This extraordinary condition is created by the exceptional narrowness of the lot and its relationship to the right-of-way of Middleton Court.

The second option is shown on the applicant's three-lot preliminary plan. The 20,000-square-foot lot is located adjacent to Middleton Lane, and the extension of Middleton Court through the remainder of the property would create the other two lots. Both lots fronting on Middleton Court would be 100 feet wide and both would require a variance from the minimum lot size of 20,000 square feet. Reviewing an aerial photograph of this neighborhood illustrates that the proposed three-lot configuration allows a development pattern that continues the streetscape along Middleton Court, rather than placing one residence at the terminus as illustrated on Exhibit "A." The result of the three-lot plan as submitted is a more uniformed, finished look with homes fronting Middleton Court on both sides and one lot fronting onto Middleton Lane, and is approved.

The third option, shown on Applicant Exhibit "B" also requires variances. Again, as with the other options, a 20,000-square-foot lot fronts onto Middleton Lane. Rather than extend the Middleton Court right-of-way through the property to abut the northern property line, it would be extended into the subject property approximately 45 feet to allow for the required 70 feet of street frontage and the construction of a "tee" turnaround. The resulting two lots would be slightly larger than those created by the preliminary plan as submitted, but they would both still require variances. The resulting three-lot plan also allows for the streetscape to be uniformed and finished, but would also

prevent the extension of Middleton Court beyond this property. Because the resulting two lots would be larger than the two lots shown on the preliminary plan, smaller variances would be needed.

All of these outcomes are also relevant to Finding 3 below, which addresses master plan and General Plan integrity.

**(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;**

Strict application of the density and lot area requirements for the R-R Zone will result in unusual and practical difficulties for the existing and future owner of the property. For the current property owner, the unusual relationship between the existing community, Middleton Court and the second lot (2-lot subdivision), will make the 33,500-square-foot property difficult to market and sell. The only vehicular access to the lot will be from Middleton Court. All of the properties along Middleton Court south of the subject property were developed under the previous R-R Zone (10,000-square-foot minimum lot size) and all of them are less than 20,000 square feet in size. Therefore, any potential purchaser of the 33,500-square-foot lot will be driving through a community of smaller lots with less frontage to a large parcel at the terminus of the street.

If the current owner finds a buyer of the unusual lot, the buyer will be faced with the practical difficulties described above and expanded herein. Option "A", which does not need a variance, creates a very shallow property. Given the definition of a rear yard, which is the yard opposite the front street (Sections 27-107.01(140) and (262) define the rear lot line and the rear yard), this option leaves no private area on the property for rear yard activity. It locates a long technical rear yard along a neighbor's side yard and puts all of the useable outdoor space of the lot into two side yards. In addition, Section 27-442(i), Footnote 10, requires accessory structures to be in the rear yard, except on through lots. Given that the only usable area on the lot as shown on Exhibit "A" is in either side yard, this would present a practical difficulty for the owner of this lot. Useable private space and the rear yard area is severely restricted on this lot, even though the overall lot size is generous, given Zoning Ordinance definitions and restrictions and the surrounding development relationship to this lot. A practical solution is to create two lots here giving both lots frontage onto Middleton Court and proper rear yards suitable for private outdoor activity areas. Both the submitted preliminary plan and Applicant Exhibit "B" do just that and continue the character of the existing community.

Denial of the variances would deny the property owner rights enjoyed by neighboring property owners, imposing an undue hardship upon the applicant in this case.

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

Even though the property is located outside the Capital Beltway (I-95/495), the 2002 Approved General Plan for Prince George's County placed the property in the Developed Tier. The goals for

the Developed Tier include strengthening existing neighborhoods and encouraging appropriate infill development (Page 31). The 2006 approved Henson Creek-South Potomac master plan recommends residential low-density land use (up to 5.7 dwellings per acre) for the property and the sectional map amendment retained the property in the R-R Zone.

The surrounding development pattern includes lots of varying sizes. To the south, for example, lots of 20,000, 14,000, and 17,600 square feet abut the property. The property to the north is a similar lot, long and narrow, but with frontage only on Middleton Lane. It is developed with one single-family home close to Middleton Lane and a second residence located behind the first, both of which are accessed from Middleton Lane. The lotting pattern to the south is a reflection of the two parallel roads, Middleton Lane and Middleton Court. An existing 20,000-square-foot lot fronts on Middleton Lane and the smaller 14,000- and 17,600-square-foot lots front on Middleton Court. This is the same lotting pattern proposed by the applicant's original three-lot preliminary plan which requires the variances.

Properties to the southwest were developed under the previous R-R zoning regulations which required a minimum of 10,000 square feet, most of the lots fronting on Middleton Court are between 10,000 and 14,000 square feet in size. While it is possible that, if the variance is approved, Middleton Court could be extended to the north through the next two properties, from a planning perspective, a possible continuation would not be problematic and each owner would have to pursue variances similar to the instant application. However, approval of further variances is not certain in any future subdivision case. Applicant Exhibit "B" would terminate Middleton Court within the property providing an adequate transition between smaller lot development to the southwest and larger lot development to the northeast. Applicant Exhibit "B" would have preclude any further right-of-way extension but was not approved.

The goals of the master plan include providing a mix of housing choices to meet the needs of a wide range of citizens. This property, located in the Developed Tier, where the master plan recognizes that much of the land was developed prior to existing standards and that "new development will primarily be redevelopment or revitalization of existing commercial and residential uses or infill on smaller, undeveloped tracts within established neighborhoods." This proposal represents the infill development the master plan and General Plan envisioned. It places a different mix of housing choices in an area within the Developed Tier, without exceeding the maximum density range envisioned by the master plan.

Approval of these variances strengthens the existing neighborhood and provides appropriate infill development by extending the existing lotting pattern and providing development consistent with the existing neighborhood structure. Therefore, the variances will not significantly impair the intent, purpose, or integrity of the approved 2002 General Plan or the approved 2006 Henson Creek-South Potomac master plan. Quite the opposite, it will further those intents and purposes and enhance the integrity of those plans. The variances and resultant development will be consistent with the 2002 General Plan and not inconsistent with the 2006 Henson Creek-South Potomac master plan.



The Planning Board grants variances to Section 27-442(b) and Section 27-442(h) for Lots 2 and 3 based on the findings above.

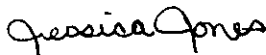
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

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 Vaughns, seconded by Commissioner Clark, with Commissioners Vaughns, Clark, and Squire voting in favor of the motion, and with Commissioners Parker and Cavitt opposing the motion at its regular meeting held on Thursday, June 2, 2011, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 30<sup>th</sup> 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-NCP&C Legal Department

Date 6/17/11