



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 13-18

File No. 4-12016

## RESOLUTION

WHEREAS, Roy Daniels is the owner of a 37.45-acre parcel of land known as Tax Map 77 in Grid F-2 and is also known as Parcel 12, said property being in the 3rd Election District of Prince George's County, Maryland, and being zoned Residential-Agricultural (R-A) ; and

WHEREAS, on September 28, 2012, Roy Daniels filed an application for approval of a Preliminary Plan of Subdivision for 11 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-12016 for Daniel's Landing Estates (Conservation Subdivision) 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 February 21, 2013, for its review and action in accordance with the Land Use Article of the 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 February 21, 2013, 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 the Type 1 Tree Conservation Plan (TCP1-010-12), and further APPROVED Preliminary Plan of Subdivision 4-12016, Daniel's Landing Estates (Conservation Subdivision), including a Variance from Section 25-122(b)(1)(G) for 11 lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Label Lot 1 as "Historic Conservation Lot 1."
  - b. Label Lot 11 as "Environmental Conservation Lot 11."
  - c. Change building restriction line (BRL) to setback.
  - d. Label outparcels as outlots.
  - e. Revise General Note 33 to add reference to Section 24-152(j)(2).
  - f. Revise General Note 31 to add "to be relocated."

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- g. Revise General Note 22 to include that lots 2, 6, 9 and 10 are not exempt.
  - h. Remove "box," drafting error on Lot 1.
  - i. Clearly label the extent of the environmental setting on Lot 1.
  - j. Show the existing well on proposed Lot 4.
2. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan shall be revised as follows:
- a. Specimen trees to be removed shall be indicated graphically on the plan and in the legend by the use of an "X."
  - b. The following variance note shall be provided on the plan sheet:

"NOTE: This plan is in accordance with the following variance(s) from the strict requirements of Subtitle 25 approved by the Planning Board on February 21, 2013:

"(1) The removal of four specimen trees (Section 25-122(b)(1)(G)): ST-2, ST-3, ST-4, and ST-5."
  - c. Have the plan signed and dated by the qualified professional who prepared it.
  - d. Add the note: "A Subtitle 25 variance for the removal of historic trees within the revised environmental setting for Goodwood was not requested with the approval of TCP1-010-12. Any future request for tree removal, grading or development within the environmental setting of the historic resource shall be subject to a revision to the TCP1 or TCP2, and shall include an assessment of the existing trees to determine whether a variance for the removal of specimen, champion or historic trees is required."
3. Prior to approval of building permits, in conformance with the 2009 *Approved Countywide Master Plan of Transportation* and the *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, and 74B*, the applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of one "Share the Road with a Bike" sign and provide a note on the final plat.
4. Prior to approval of the final plat, an executed private access easement agreement shall be submitted and approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC). The access easement, authorized pursuant to Sections 24-152(j)(2) and 24-128(b)(1) of the Subdivision Regulations, shall set forth the rights, responsibilities, and liabilities of the lot

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owners. The easement shall contain two parts, one for the northern access (Lots 1-7), and one for the southern access (Lots 8-11), with joint responsibility of maintenance for both parts to be shared in common by all lot owners. The easement document shall include utility access and be recorded in the land records of Prince George's County, and the liber/folio reflected on the record plat.

5. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall grant a ten-foot-wide public utility easement (PUE) along the public rights-of-way (ROWs) and within the 32-foot private access easements as delineated on the approved preliminary plan of subdivision.

6. Development of this subdivision shall be in conformance with an approved Type 2 tree conservation plan. The following note shall be placed on the final plat of subdivision:

"This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and Folio reflected on the Type 2 Tree Conservation Plan when approved."

7. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-002-12). 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 (TCP1-002-12), 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."

8. At the time of final plat, a primary management area (PMA) conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated wetlands and their associated buffers and any streams with buffers on-site and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:

"PMA Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

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9. Prior to approval of the final plat, a conservation subdivision easement agreement shall be executed and the easement shall be recorded in the land records of Prince George's County for the conservation area on Conservation Lot 1 (CL 1), in accordance with Section 24-152 of the Subdivision Regulations and the findings contained in the resolution of the approved preliminary plan of subdivision. The final plat shall indicate the liber/folio of the agreement. The easement agreement shall be reviewed by the Historic Preservation and Environmental Planning Sections and be approved by the Prince George's County Planning Board. The easement shall run with the land, and shall be in full force and effect in perpetuity.
10. Prior to approval of the final plat, a conservation subdivision easement agreement shall be executed and the easement shall be recorded in the land records of Prince George's County for the conservation area on Conservation Lot 11 (CL 11), in accordance with Section 24-152 of the Subdivision Regulations and the findings contained in the resolution of the approved preliminary plan of subdivision. The final plat shall indicate the liber/folio of the agreement. The easement agreement shall be reviewed by the Environmental Planning Section and be approved by the Prince George's County Planning Board. The easement shall run with the land, and shall be in full force and effect in perpetuity.
11. The street construction and building permit plans shall demonstrate the use of full cut-off optics to ensure that off-site light intrusion into residential and environmentally-sensitive areas is minimized. The following note shall be placed on the final plan:

"All street lighting fixtures shall use full cut-off optics and be directed downward to reduce to reduce glare and light spill-over."
12. Prior to approval of the final plat, split-rail fencing shall be reviewed by the Historic Preservation Commission or its designee and be installed on proposed Lot 1 along the northern property line adjoining proposed Lots 2-5.
13. Total development within the subject property shall be limited to a mix of uses which generates no more than 7 AM peak-hour trips and 9 PM peak-hour trips. Any development generating a traffic 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.
14. Development of this site shall be in conformance with Stormwater Management Concept Plan 23978-2010-00 and any subsequent revisions.
15. The final plat shall reflect the public right-of-way dedication consistent with the approved preliminary plan of subdivision.
16. The applicant's heirs, successors, and/or assigns shall submit semi-annual written conditions reports to the Historic Preservation Commission to verify conditions at the Goodwood Historic Site (74B-014) and to confirm the completion of affirmative maintenance. The reports shall describe and illustrate conditions at the property and shall be submitted each year by the end of



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January and the end of July, until the rehabilitation of the property is completed. Conditions described in the semi-annual reports shall be verified by Historic Preservation Section staff through semi-annual on-site inspections. Failure to submit the semi-annual written reports could result in the initiation of an investigation to determine whether or not the property is subject to demolition by neglect as defined by Subtitle 29-102.

17. Prior to the approval of final plats for the development, the applicant, his heirs, successors, and/or assigns shall be responsible for the Stabilization of the Goodwood Historic Site (74B-014) through the Historic Preservation Commission's Historic Area Work Permit (HAWP) process, and according to the *Stabilization and Rehabilitation Guidelines* recommended by the HPC. The stabilization of the property shall be carried out by a preservation architect, engineer or contractor with demonstrated experience with historic properties. The stabilization of the property shall include but not be limited to: (1) the enclosure of all portions of the building in a secure manner that precludes infiltration by the elements, plant materials, animals or unauthorized persons; (2) the analysis of any structural, architectural or systems deficits the building presents; (3) the completion of any repairs identified through the required structural analysis.
18. Prior to the issuance of the first building permit for the development (Lots 2-11), the applicant, his heirs, successors, and/or assigns shall be responsible for the Rehabilitation of the Goodwood Historic Site (74B-014) according to the *Stabilization and Rehabilitation Guidelines* recommended by the HPC for those portions or features of the site that are significant to its historical, architectural and cultural values. The rehabilitation of the property shall be carried out by a preservation architect, engineer or contractor with demonstrated experience with historic properties. This rehabilitation work shall be carried out through the Historic Preservation Commission's Historic Area Work Permit (HAWP) process, as appropriate.
19. Prior to any ground disturbance within the Goodwood Historic Site environmental setting (74B-014) on Lot 1, the applicant, his heirs, successors, and/or assigns shall be required to conduct additional archeological investigations to be approved through the Historic Preservation Commission's HAWP application process.
20. Prior to the approval of the final plat, a draft private pedestrian access easement in connecting the terminus of the two private access drives shall reviewed and approved. The liber and folio of that document shall be reflected on the record plat.
21. The applicant and the applicant's heirs, successors, and/or assignees, in accordance with the provisions of County Council Bill CB-89-2004 and Section 24-122.01(d)(2) of the Subdivision Regulations, shall provide water storage tanks, the availability of water tanker trucks, or other appropriate source of water for fire extinguishing purposes, subject to the approval of the Fire Chief or their designee.
22. Prior to approval of the final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of parkland dedication for Lots 2, 6, 9, and 10

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23. Prior to approval of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall provide executed agreements with the owners of Parcels 13, 25, and 32 for the conveyance of Outlots A, B, and C. If an agreement cannot be reached, Outlots A and B shall be dedicated to public use as part of Goodwood Court if acceptable by DPW&T, and if not included in CL 1. Outlot C would be retained as part of the proposed CL 1.
24. Prior to approval of the first building permit, the existing driveway for the Goodwood house shall be relocated so that sole access for proposed Conservation Lot 1 (CL 1) is within the 32-foot access easement on CL 1, as established with the approved PPS.
25. Prior to the approval of the final plat, the Prince George's Health Department will require a water appropriation and use permit be obtained from the Water Supply Program of the Maryland Department of the Environment because the site proposes ten or more lots.
26. Prior to approval of building permits, the applicant, his heirs, and/or assignees shall provide evidence from the Prince George's Health Department that the existing well on proposed Lot 4 has been backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller, or as witnessed by a representative from the Health Department.
27. Nonresidential development shall require approval of a new preliminary plan of subdivision prior to approval of any building permits.
28. Prior to approval of the final plat, the final alignment of the new electric line shall be determined by the applicant and BG&E, including any additional PUEs to accommodate the new alignment and shall be granted by the final plat.
29. Prior to approval of the final plat, a limited detailed site plan should be approved by the Planning Board or designee to address the issue of unsafe lands (Marlboro Clay) on the subject property pursuant to Section 24-131 of the Subdivision Regulations. The purposes of the limited detailed site plan should be as follows:
  - a. A geotechnical study, following at a minimum the "Criteria for Soil Investigations and Reports on the Presence and Affect of Marlboro Clay upon Proposed Developments" prepared by the Prince George's County Unstable Soils Taskforce, shall be submitted for review and approval by the Prince George's County Department of Public Works and Transportation to satisfy the requirements of Section 24-131 of the Subdivision Regulations and Section 4-279 of the Building Code.
  - b. If an unmitigated 1.5 safety factor line is present, the 1.5 Safety Factor Line shall be shown on the limited detail site plan, and subsequent final plat prior to approval.
  - c. No structures or septic fields shall be placed within the unmitigated 1.5 safety factor line unless proper mitigation has been provided.

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- d. The Limited DSP shall be referred to the Health Department for evaluation of any impacts on proposed septic fields.
  - e. If the applicant proposes remedial actions to correct or alleviate the unsafe soil conditions, the Limited DSP proposal shall be referred to the Chief Building Inspector for a determination of whether such measures are sufficient to protect the health and safety of future residents. Covenants may be required to ensure such remedial actions occur and the Liber Folio shall be reflected on the final plat, prior to approval.
  - f. Lots may be determined to be unplattable and lost based on a determination of unsafe lands, unless mitigation is proposed, and approved as part of the Limited DSP.
  - g. If appropriate, a twenty-five-foot building restriction line shall be delineated for the affected lots on the detailed site plan and the final plat.
30. If determined to be necessary at the time of the limited detailed site plan (LDSP), prior to approval of the final plat, the plat shall be reviewed by the Prince George's County Department of Environmental Resources and/or Public Works as appropriate to ensure that the locations of the unmitigated 1.5 safety factor lines are correctly shown. The following note shall be provided on the plat:
- "The unmitigated 1.5 safety factor line is provided to ensure that design issues related to the presence of Marlboro clay are addressed as part of the design of any structures or the placement of septic fields on the subject property."
31. Prior to the approval of building permits for Lots 6 and 7, the applicant shall provide photographic evidence that the planting island within the cul-de-sac serving those lots has been landscaped.
32. Prior to the approval or building permits for Lots 8 and 9, the applicant shall provide photographic evidence that the planting island within the cul-de-sac serving those lots has been landscaped.
33. Prior to the approval of the building permit for Lot 11, a limited detailed site plan shall be approved by the Planning Board or its designee to ensure the compatibility of new construction visible from the historic site. The limited detailed site plan shall address the design, height, form, materials, colors, landscaping, and lighting of new construction to ensure its compatibility with the historic site.
34. All approved plans associated with this application shall include a note providing the following disclaimer: "The continued presence of unpermitted and unapproved portions of the building, particularly incomplete additions initiated in the 1990s, does not indicate that these features shall be retained in perpetuity. Formal determinations must be made by both Prince George's County and by the Historic Preservation Commission regarding whether these additions, in any form, can be found to meet both county building codes and the Historic Preservation Commission's policies and guidelines associated with the Historic Area Work Permit (HAWP) process, as required of any

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additions or alterations to the exterior of a historic site or its environmental setting. Although these additions may be allowed to remain in the short term during the stabilization and rehabilitation of the historic site, there is no guarantee that they will be allowed to remain as permanent elements of the historic site.”

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 the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on Tax Map 77 in Grid F-2 and is known as Parcel 12. The property consists of 37.45 acres within the Residential-Agricultural (R-A) Zone and is currently developed with one single-family dwelling which is known as the Goodwood House Historic Site (#74B-014), and is to remain. The site is within the Rural Tier and a conservation subdivision is proposed. The site is within the limits of the 2006 *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, and 74B* (Bowie and Vicinity Master Plan (SMA)).

The applicant previously submitted a Preliminary Plan of Subdivision, 4-90025, for the subject property. That application proposed to subdivide the property into 18 conventional lots for single-family dwelling units with frontage and direct access on a new public right-of-way and private easement, extending north from Clagett Landing Road. That preliminary plan was approved by the Planning Board, but a final plat was never approved prior to the expiration of the preliminary plan.

The applicant then submitted a Preliminary Plan of Subdivision, 4-01084, for the subject property. Preliminary Plan of Subdivision 4-01084 was accepted October 22, 2001, prior to the creation of the requirement for conservation subdivisions in the Rural Tier. That application proposed to subdivide the property into sixteen conventional lots for single-family dwelling units with frontage and direct access on a new public right-of-way and private easement, extending north from Clagett Landing Road. That preliminary plan was withdrawn prior to the Planning Board hearing because of septic system percolation issues identified by the Prince George's County Health Department (Health Department).

In the subject Preliminary Plan of Subdivision, 4-12016, the applicant proposed to subdivide Parcel 12 into 11 lots for single-family detached dwellings utilizing the required provisions for a conservation subdivision, pursuant to Section 24-152 of the Subdivision Regulations, in the Rural Tier. Prior to the submittal of a preliminary plan for a conservation subdivision, the applicant was required to complete the sketch plan process where the existing conditions of the site are inventoried and the opportunities for conservation are identified. The applicant filed Sketch Plan S-10002 for the subject property which was certified by the Planning Director on May 4, 2012.

The certified sketch plan proposed 11 lots in the R-A Zone, and set conservation priorities as historic, scenic, and environmental. The proposed conservation subdivision was unique due to the

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fact that there are two conservation lots were proposed that are significantly different in their purposes. Conservation Lot 1 (CL 1) is the highest priority of preservation for the site because of the Goodwood House Historic Site (#74B-014) as discussed further in the historic preservation and Historic Preservation Commission finding. The second Conservation Lot, Lot 11 (CL 11), is for the preservation of the viewshed along Clagett Landing Road, the existing woodland, and the primary management area (PMA) as discussed further in Environmental Planning finding.

The application proposed several improvements in the layout from the previous conventional subdivisions, consistent with the certified sketch plan (S-10002) and met the intent and requirements of Section 24-152 of the Subdivision Regulations for a conservation subdivision. The preliminary plan proposed 11 lots, including the environmental Conservation Lot (CL 11) and the historic Conservation Lot 1 (CL 1), instead of ten lots and one conservation lot as proposed on the sketch plan. The 11 lots will have frontage and direct access on two proposed private easements authorized by 24-128(b)(1) and 24-152(j)(2) of the Subdivision Regulations which will have access to the proposed dedicated 60-foot-wide public right-of-way (ROW) that extends 750 feet north from Clagett Landing Road into the site.

CL 1 the historic conservation lot, is proposed to be 4.38 acres. The applicant has received approval from the Historic Preservation Commission to revise the environmental setting to match the boundaries of the conservation easement on the proposed CL 1. A residential development area was not established for the location of a dwelling on CL 1 since there is an existing historic dwelling which is already under the purview of the Historic Preservation Commission (HPC), the 3.94 acres will be placed in a perpetual conservation easement for historic preservation. The Goodwood House is currently uninhabitable and signification rehabilitation and stabilization measures are being recommended by the HPC to ensure that the structure remains intact. If the structure were to fall into a state of disrepair and be demolished, the basis for staff recommending approval of this application would no longer be appropriate. The active preservation and assurance of the continued existence of the Goodwood House is integral to the design of this subdivision because the number one priority for this conservation subdivision is the preservation of the historic site. These recommendations are discussed further in the HPC finding below.

CL 11, the environmental conservation lot, is proposed to be 16.88 acres. A residential development area was established for the location of a dwelling on CL 11 of 45,850 square feet (1.05 acres); the remaining portion of the conservation lot (14.14 acres) will be placed in a perpetual conservation easement, which will include the viewshed, PMA, and woodland preservation. The total area of CL 1 and CL 11 to be conserved totals 21.26 acres, which is 3.36 acres more than what was shown on the sketch plan. Staff finds that the proposed subdivision of the property into 11 lots meets the purpose and intent of the Conservation Subdivision Regulations, as discussed further throughout this report.

The preliminary plan was accepted prior to October 1, 2012 which grandfathers the site from the County's adoption of Sustainable Growth and Agricultural Preservation Act (CB-104-2012 and CR-84-2012) as discussed further in the Water and Sewer finding of this report.

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A variance application to Section 25-122(b)(1)(G) of the Woodland and Wildlife Habitat Conservation Ordinance for the removal of four of the eleven specimen trees was submitted. A statement of justification for the variance application was received and supported, as discussed further in the Environmental Planning finding.

As discussed in the Environmental Planning finding, this site is impacted by Marlboro Clay. At the writing of the staff report, a final geotechnical report had not been submitted as requested by staff. Based on the draft study issues may exist. Therefore, staff recommended a limited detail site plan (LDSP) prior to final plat to address issues that may be associated with Marlboro Clay. A loss of lots could result from the review of the LDSP, as discussed further in the Environmental Planning finding.

3. **Setting**—The property is located on the north side of Claggett Landing Road, approximately 175 feet west of its intersection with Sarah Rogers Way. The neighboring properties are zoned Residential-Agricultural (R-A) and are developed with single-family detached dwellings and agricultural uses.
4. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	R-A	R-A
Use(s)	Residential Single-family dwelling	Residential Single-family dwelling
Acreage	37.45	37.45
Lots	0	11 (Including two conservation lots)
Outlots	0	3
Parcels	1	0
Dwelling Units:		
Detached	1 (to remain)	11(10 new)
Public Safety Mitigation Fee	No	No
Variance	No	Yes (25-122(b)(1)(G))

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on October 12, 2012.

5. **Conservation Subdivision**—Section 24-152 of the Subdivision Regulations establishes guidelines for the conservation subdivision design. Section 24-152(f) requires the submittal and certification of a sketch plan prior to submittal of the preliminary plan for a conservation subdivision. The purpose of the sketch plan is to inventory existing site features and identify the

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purpose and priorities for conservation. Certification of the sketch plan is not approval of the subdivision, but certification that the applicant has completed the sketch plan process and provided adequate information to identify priorities for conservation. Conservation Subdivision Sketch Plan S-10002, Daniel's Landing Estates, was completed for the site and was certified by the Planning Director on May 4, 2012, and is valid for two years from that date.

The certified sketch plan set the priorities for this conservation subdivision as follows:

**Priority One—Historic Resources:** The historic house, "Goodwood" is located on the top of a knoll in the center of the site (CL 1). The HPC had previously approved an environmental setting of 4.6 acres and at their January 15, 2012 hearing, based on this PPS, revised the environmental setting to 3.94 acres of Conservation Lot 1.

**Priority Two—Scenic Resources:** Daniel's Landing Estates is located along Clagett Landing Road. Although it is not classified as a scenic or a historic road, it has a rural character characterized by farms, forests, and large lots. The proposed conservation subdivision will maintain a tract of woodland ranging from 800-1,000 feet in depth between Clagett Landing Road and any development area. This buffer will be preserved on proposed Conservation Lot 11 (CL 11).

**Priority Three—Environmental Resources:** The site of Daniel's Landing Estates is almost entirely covered with woodland, or areas which are rapidly regenerating into woodlands. In the center of the site is also an area of wetlands associated with the headwaters of a small stream draining into the Patuxent River. The wetland area and a significant portion of the woodlands will be preserved on Conservation Lot 11 (CL 11).

Preliminary Plan of Subdivision 4-12016 and Type I Tree Conservation Plan TCP1-010-12 for the subject property were accepted on September 28, 2012, which was before the end of the validity period of the certified sketch plan which expires on May 4, 2014.

The subject preliminary plan of conservation subdivision proposed to subdivide the site into 11 single-family residential lots that include CL 1 and CL 11 as conservation lots for a total of 21.26 acres (3.36 more acres than shown on the sketch plan). The lots will have frontage and direct access on two new 32-foot-wide private easements, which will have access to the proposed dedicated public right-of-way of 60 feet in width and 750 feet in length, which extends north from Clagett Landing Road.

Stormwater management for the conservation subdivision will be accomplished by environmental site design methods including roadsides swales and microscale practices for the individual lots as discussed in the Stormwater Management finding below.

The site has a limited area that had acceptable percolation sites for on-site sewage system systems. This area is limited to the area toward the lower portion of the knoll surrounding the Goodwood house. The applicant has proposed to locate all of the required septic recovery areas around the

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knoll with the private access easements extending through each lot, as discussed further in the Health Department finding below. Staff supported this layout.

The conservation subdivision development technique was enacted by the District Council in order to allow for orderly development of land in a manner as set forth (in part) in Section 24-152(b) of the Subdivision Regulations:

**The purpose of the conservation subdivision is to protect the character of land through the permanent preservation of farmland, woodland, sensitive natural features, scenic and historic landscapes, vistas, and unique features of the site in keeping with the General Plan and Countywide Green Infrastructure Plan**

This preliminary plan met the purpose and intent of Section 24-152 of the Subdivision Regulations for a conservation subdivision by prioritizing site characteristics for conservation that will preserve the important features of the site as determined with the sketch plan as follows:

**Priority One: Historic:** The site contains the historic Goodwood House and its associated environmental setting. The current house is uninhabitable and major repairs are necessary for ensuring that the structure is able to exist beyond the creation of this subdivision. Staff met with the applicant under the direction of the HPC to develop a stabilization/rehabilitation plan to create a clear way for the Goodwood House to become habitable again. If the historic house were to fall into a state of disrepair, the number one priority of this conservation subdivision would not be retained and staff would not support the development as it was proposed. The plan would not conform to the certified sketch plan. Additional recommendations by the HPC have been made as discussed further in the HPC finding.

**Priority Two and Three: Scenic and Environmental:** The site is comprised of 37.45 acres of existing woodland with 11 specimen trees. Overall, the on-site woodlands are fair-to good-quality mixed hardwood. The conservation subdivision will save 21.57 acres of quality woodland. Four of the 11 specimen trees are proposed for removal with this conservation subdivision for the construction of the proposed streets. Staff supports the variance required for the removal of the four specimen trees as discussed further in the Environmental Planning finding.

#### **Historic Conservation Lot 1 (CL 1)**

Conservation Lot 1 is proposed to be 4.38 acres (190,792 square feet). A residential development area was not established for the location of a single-family dwelling on CL 1 since the Goodwood house is already in existence and any changes to the house are under the purview of the Historic Preservation Commission and could require a Historic Area Work Permit.

Prior to approval of the final plat, approximately 3.94 acres of CL 1 will be placed into a perpetual conservation easement with the allowance for installation of the public utility easement (PUE) for overhead electrical lines and private access easement (approximately 19,166 square feet) as shown



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on the preliminary plan. The conservation area will be controlled by the individual homeowner, and the easement held by a public or private organization, land trust, or corporation. The owner shall assume responsibility for maintenance and continued protection of the conservation area. An easement agreement will be approved by the Prince George's County Planning Board as part of the plat process and recorded in the land records of Prince George's County for the conservation area prior to record plat. The conservation easement will serve as an umbrella easement that will have both existing woodland preserved under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). In addition to the tree conservation easement, this lot will be under the authority of the Historic Preservation Commission (HPC) and any changes to the lot could result in the need for a historic area work permit. The approved historic environmental setting encompasses 3.94 acres of the conservation lot.

The preliminary plan shows that the conservation easement boundary of CL 1 (606 feet in length) is located south of the septic recovery areas of Lots 2-5. To provide notice to the future homeowner of CL 1 and to distinguish the conservation easement area from the adjoining lots (Lots 2-5), permanent split-rail fencing along the northern property line of CL 1 was recommended on CL 1. The split-rail fencing should be reviewed by the HPC and/or its designee and installed prior to approval of the final plat while the property is still under one single ownership.

#### **Environmental Conservation Lot 11**

CL 11 is proposed to be 16.87 acres (735,292 square feet). A residential development area was established for the location of a single-family dwelling on CL 11 of 45,850 square feet; the remaining portion of the conservation lot (15.77 acres) will be placed in a perpetual conservation easement for woodland, PMA, and viewshed preservation. The residential area established on CL 11 is consistent with the purposes of this conservation subdivision and does not adversely affect the site characteristics as established for conservation.

Prior to approval of the final plat, approximately 14.14 acres of CL 11 will be placed into a perpetual conservation easement with the allowance for installation of the stormwater outfall, septic recovery areas, PUEs along the rights-of-way, and the PUE for overhead electrical lines (approximately 48,351 square feet) as shown on the preliminary plan. The conservation area will be controlled by the individual homeowner, and the easement held by a public or private organization, land trust, or corporation. The owner shall assume responsibility for maintenance and continued protection of the conservation area. A conservation easement agreement will be approved by the Planning Board and recorded in the land records of Prince George's County for the conservation area prior to final plat. A woodland conservation easement will also be established pursuant to the Woodland and Wildlife Habitat Conservation Ordinance (WCO).

#### **Conformance with Land Distribution requirements**

The subject property is in the R-A Zone, in accordance with Section 24-152(d)(2) of the Subdivision Regulations, a minimum of 50 percent of the gross tract area is required to be designated as a conservation lot or parcel. Up to 50 percent of the gross tract area may be utilized

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for residential development areas. The proposed conservation subdivision meets the required land distribution specified in Section 24-152(d)(2) as follows:

<b>AREA TABULATION</b>	
<b>Total Tract Area</b>	<b>1,631,332 sq. ft. (37.45 acres)</b>
<b>50% Minimum Conservation Area</b>	
1,631,332 S.F. total area X 50%	<b>815,661 sq. ft. (18.72 acres)</b>
Conservation Lot 1	190,792 sq. ft.
Conservation Lot 11	735,292 sq. ft.
<b>Conservation Area Proposed</b>	<b>926,084 sq. ft. (21.26 acres)</b> <b>(56.76%)</b>
<b>50% Maximum Resident Development Area</b>	
1,631,332 S.F. total area X 50%	<b>815,661 sq. ft. (18.72 acres)</b>
<b>Resident Development Area Proposed</b>	<b>705,236 sq. ft. (16.19 acres)</b> <b>(43.24%)</b>

With a gross tract area of 37.45 acres, a minimum of 18.72 acres (815,661 square feet) for conservation area is required and a maximum of 18.72 acres (815,661 square feet) for residential development area is permitted. The preliminary plan proposed 4.38 acres for CL 1, all of which will be counted as conservation area for the existing historic site. The preliminary plan also proposed 16.8 acres for CL 11 all of which will be counted as conservation area for the existing woodland, primary management area (PMA), and viewshed protection. The preliminary plan proposed 2.53 acres or 6.76 percent more area to be in conservation than is required pursuant to Section 24-152(d)(2) for a total of 56.76 percent of the total area of the property in conservation. In addition, all woodland will be preserved on-site, as required in a conservation subdivision. The areas for the private access easement (PUE), the area of the lot (CL 1) on the eastern side of the access easement, and the PUE for the relocation of the overhead electric lines are not included as part of the conservation easement. The areas for the septic recovery area, stormwater outfall, and the public utility easement (PUE) for overhead electrical lines and along the rights-of-way on CL 11 are not included as part of the conservation easement. These infrastructure improvements are necessary to support the residential development.

The residential development area proposed for this preliminary plan is 16.19 acres (705,236 square feet), which is 43.24 percent of the gross tract area and 6.76 percent less than the maximum allowed.

In accordance with Section 27-455.12 of the Zoning Ordinance, the minimum lot size in the R-A Zone for a conservation subdivision is 30,000 square feet. Proposed Lots 2-10 have an average lot size of 46,776 square feet. The smallest lot proposed is 30,000 square feet of net lot area and the largest proposed lot is 1.70 acres of net lot area. All of the proposed lots meet the bulk regulations for conservation subdivisions in Section 27-445.12 as discussed below in the Urban Design finding.

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Section 24-152(k) states that the Planning Board shall find that the conservation subdivision:

- (1) **Fulfills the purpose and conforms to the regulations and standards for a conservation subdivision.**
- (2) **Achieves the best possible relationship between the development and the conservation of site characteristics as prioritized in the sketch plan and preliminary plan.**

In accordance with Section 24-152, staff found that this preliminary plan conformed to the purposes, regulations, and standards for development of a conservation subdivision. The site layout was reviewed for conformance to design criteria for conservation and residential areas (Section 24-152(g)(2) and (h)(2)). The layout created the best possible relationship between the development of the site and the conservation of site characteristics as identified in the sketch planning stage (S-10002) and further defined with the preliminary plan process. The layout for the conservation subdivision proposed to create lots that surround the existing historic Goodwood House historic site, while providing appropriate buffering from the existing house to the proposed lots, and also maintains a large tract of woodland that buffers the proposed development from Clagett Landing Road. The overall proposed layout and woodland in conservation are in conformance with the WCO. The proposed preliminary plan of conservation subdivision provides a better development overall and preserves more of the site resources than that which could be achieved under the conventional plan, as set forth in the findings and conditions.

6. **Community Planning**—The 2002 *Prince George's County Approved General Plan* designates the subject property within the Rural Tier. The vision for the Rural Tier is the protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. The use of a conservation subdivision is consistent with the visions of the Rural Tier by placing in conservation large amounts of land for woodland and wildlife habitat, dedicating land for recreation, and preserving the rural character and vistas of the agricultural pursuits that currently exist on the property along Clagett Landing Road. There are no General Plan issues raised by this application.

The 2006 *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, and 74B* recommends strategies for implementing the General Plan policies to retain the rural character for the Rural Tier. The following strategies in the 2006 Bowie and Vicinity Master Plan (SMA) (pp. 6, 7 and 8) are applicable and in the consideration of this application.

**Policy 1: Strategy 1**

**Enact conservation subdivision design regulations and other flexible design standards that place a premium on conserving open areas and protecting environmental features. Through this strategy, the approved residential lotting pattern may be more compact than typically**

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allowed, but the land that is saved from development is much greater and connectivity with other open space areas is more easily maintained.

**Policy 1: Strategy 3**

Ensure that land preserved during the development review process expresses one or more of the following values:

- a. Agricultural preservation.
- b. Retention of scenic vistas.
- d. Minimal impervious surfaces.
- f. Minimal ecological impacts.

**Policy 1: Strategy 4**

Implement rural design standards to ensure that new private and public development is consistent with the prevailing character of the rural area. The following guidelines should be incorporated into the standards:

- a. Houses should be set back a minimum of 100 feet from public rights-of-way to preserve scenic viewsheds, wooded areas, open fields, and ridge lines.
- b. The layout of the subdivision should preserve and enhance the existing natural features of the site including woodland, wetlands, streams and areas of significant wildlife habitat.
- c. Preservation of existing vegetation or the installation of landscaping should be provided to soften and buffer views of houses and other structures. Landscape plants should be native and re-create rural buffers.
- d. Architecture should conform to the prevailing rural style, including such elements as roof lines and pitch, entrance drives, porches, lighting and building materials. Vinyl and aluminum siding are discouraged.
- f. Fencing should be kept to a minimum to maintain open views and rural character. The use of stockade, board-on-board, chain-link, vinyl, and other high fences is discouraged. Fencing should respond to the rural character type, height, and scale existing within the Rural Tier. Acceptable fencing includes stone walls, split rail, and equestrian-style.
- g. Grading and drainage should be minimally intrusive. Massive cut and fill should be avoided. The creation of earth mounds, berms for screening, and platforms for house sites should be discouraged.

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- j. **The use of full cut-off optic light fixtures should be encouraged for all new development, including both on-site and street lighting.**

The preliminary plan proposed setbacks consistent with the regulations for development in the Rural Tier in a conservation subdivision. Clagett Landing Road is not a scenic or historic road and therefore, the 100-foot setback in this case was not required. The use of a conservation subdivision has allowed the significant preservation of the existing woodland on-site. The applicant is preserving the viewshed of the woodland and open space views from Clagett Landing into the southern portion of the property.

The applicant has proposed the preservation of existing natural features and the historic building. Staff recommended that the applicant use full optic cut-off lighting fixtures for the new development as discussed below in the Environmental Planning finding. There are no forest interior dwelling species (FIDS) habitat identified on this property, however, the use of a conservation subdivision has allowed the significant preservation of the existing woodland on-site.

The 2006 Bowie and Vicinity Master Plan (SMA) recommends the provision for a shared use pedestrian hiker/biker trail along Clagett Landing Road and is further addressed in the Trails finding below.

7. **Urban Design**—The site is currently developed with the Goodwood historic house and proposes to subdivide the site into 11 lots for single-family detached dwellings.

**2010 Prince George's County Landscape Manual**

Per Section 27-450 of the Zoning Ordinance, landscaping, screening, and buffering within all residential zones shall be provided in accordance with the provisions of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The following sections of the Landscape Manual will apply to future building and fine grading permits for the proposed development.

- **Section 4.1, Residential Requirements:** All of the proposed lots have a gross lot area of over 40,000 square feet. The Landscape Manual states that all one-family detached lots that are 40,000 square feet or larger shall be planted with a minimum of four major shade trees and three ornamental or evergreen trees per lot. At least two of the major shade trees shall be planted on the south and/or west side of the residential structure within 30 feet of it; and at least one of the required major shade trees and one of the ornamental trees shall be located in the front yard.
- **Section 4.7, Buffering Incompatible Uses:** In areas where the property line abuts lots with a single-family use, no bufferyard is required. In areas where the property line abuts lots with a general agricultural use, a Type "B" bufferyard inclusive of a 30-foot building setback and 20-foot landscape yard is required.

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A historic site exists within the center of the subject 37.45-acre property. The developing single-family lots will adjoin the designated historic site. In the Developing and Rural Tiers, the developing lot shall provide a Type "E" bufferyard inclusive of a 60-foot building setback and 50-foot landscape yard along the entire property line that is shared with the lot containing the historic site. Staff has verified that Parcel 131 abutting the west, Parcel 135 to the north, and Parcels 46 and 52 to the east are agriculturally assessed and will require buffers prior to building permit. Adequate area exists on the abutting lots to provide the buffers on-site.

Submitted information indicates that septic recovery areas are proposed on the single-family lots between the historic site and the location of the proposed single-family homes. These septic recovery areas may encumber the applicant's ability to meet the requirement of Section 4.7 on some proposed lots because dense tree planting is not typically encouraged in septic recovery areas but is permitted. The requirement of Section 4.7 was taken into account in review of this PPS so sufficient bufferyards around the historic site could be established prior to any transfer of ownership of any individual lots for private development. After review with the Alternative Compliance Committee, it was determined that Lots 3-5 would be able to accommodate the required buffer on the northern side of the septic recovery areas. Lot 2 and CL 11 will need to seek alternative compliance prior to building permit approval. For CL 11, a landscape easement could be recorded by the applicant on CL 1 to avoid the need for alternative compliance.

- **Section 4.9, Sustainable Landscape Requirements:** The site will be subject to Section 4.9, which contains percentage requirements for native plantings.
- **Section 4.10, Street Trees Along Private Streets:** When private streets are proposed, the Landscape Manual specifies that street trees be provided. Shade trees of 2.5 to 3 inch caliper (diameter at breast height) in size shall be planted along each private street at an average spacing of not less than 25 feet on center nor greater than 50 feet on center, excluding driveway openings. Spacing allowances may be made, where necessary, to accommodate curb cuts, fire hydrants, and other infrastructure elements.

Compliance with the above requirements will be reviewed at the time of permit review.

#### **Conformance with the Zoning Ordinance**

In the R-A Zone, single-family detached dwellings are permitted in accordance with Section 27-441 of the Zoning Ordinance. In accordance with Section 27-445.12, the bulk regulations for conservation subdivisions in the R-A Zone are as follows:

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<b>Zoning District</b>	<b>Maximum Density (dwelling units per net tract area)</b>	<b>Minimum Net Lot Area</b>	<b>Minimum Lot Width at the front building line and front street line</b>	<b>Minimum Lot Width at the building line and street line adjacent to a scenic or historic road</b>	<b>Minimum Lot Width at the front street line on a cul-de-sac</b>
<b>R-A</b>	<b>0.5</b>	<b>30,000 square feet</b>	<b>80 feet</b>	<b>200 feet</b>	<b>50 feet</b>

The minimum lot sizes and the minimum lot widths are correctly shown on the submitted plan.

#### **Conformance with the Tree Canopy Coverage Ordinance**

The proposed development will not be subject to the requirements of the Tree Canopy Coverage Ordinance at the time of building permit since properties in the R-A Zone are exempt.

8. **Environmental Planning**—A Type 1 Tree Conservation Plan (TCP1-010-12) was received and reviewed. A Natural Resources Inventory (NRI-025-06) was approved for this site on March 9, 2006 and a revision was approved on October 3, 2012, and was submitted with this application.

#### **Master Plan Conformance**

The current master plan for this area is the *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, and 74B* (Bowie and Vicinity Master Plan). In the Bowie and Vicinity Master Plan, the Environmental Infrastructure chapter contains goals, policies and strategies. The following policies and strategies were determined to be applicable to the subject application. The text in **BOLD** is the relevant text from the master plan and the plain text provides comments on plan conformance:

**POLICY 1: Protect, preserve and enhance the identified green infrastructure network within the master plan area.**

#### **Strategies:**

1. **Use designated green infrastructure network to identify opportunities for environmental preservation and restoration during the review of land development proposals.**

The site contains no areas within the designated network. Environmental preservation and restoration on this site is based on the approved NRI designating the primary management area (PMA) and regulated features of the subject property.

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3. **Carefully evaluate land development proposals in the vicinity of identified SCAs (The Beltsville Agricultural Research Center to the north, along with the Patuxent Research Refuge; Belt Woods in the western portion of the master plan area; and the Patuxent River) to ensure that the SCAs are not impacted and connections are either maintained or restored.**

According to Map 7, page 188 of the master plan, the subject site is located within the Patuxent River basin's special conservation area (SCA) and this river corridor is also a designated primary corridor. The subject property is mostly wooded, but is surrounded by open farm land with unbuffered streams leading to a green connection to the tributary stream located north of this property.

The TCP1 submitted with the application showed a lot layout and development envelope that protects the PMA in a large contiguous block of woodlands, and provides for the entire woodland conservation requirement on-site. Impacts to the SCA have been minimized by the use of the Conservation Subdivision Regulations.

**POLICY 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded.**

**Strategies**

1. **Ensure the use of low impact development techniques to the extent possible during the development process.**

An approved stormwater management (SWM) concept approval letter (23978-2010) and associated plans were submitted with the current application. The SWM plan showed the use of environmental site design (ESD) techniques, such as the use of micro bioretention, landscape infiltration, roof top runoff disconnect, grass swales, and dry wells, which are appropriate for the rural character of the site.

2. **Encourage the use of conservation landscaping techniques that reduce water consumption and the need for fertilizers or chemical applications.**

At the time of building permit, a landscape plan will be reviewed for the application of conservation landscaping techniques at later stages in the development process. Adherence to the sustainable landscaping requirements of the Landscape Manual will ensure that this is appropriately addressed.

**POLICY 3: Protect and enhance tree cover within the master plan area.**

**Strategies**

1. **Encourage the planting of trees in developed areas and established communities to increase the overall tree cover.**



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2. **Provide a minimum of ten percent tree cover on all development projects. This can be met through the provision of preserved areas or landscape trees.**
3. **Establish street trees in planting strips designed to promote long-term growth and increase tree cover.**
4. **Establish tree planting adjacent to and within areas of impervious surfaces. Ensure an even distribution of tree planting to provide shade to the maximum amount of impervious areas possible.**

Because of this site's current large-lot zoning (R-A), its location with respect to a designated special conservation area, its location as an environmental setting for a designated historic site, the current open character of the surrounding area, the high water table, and the presence of Marlboro clay, the entire woodland conservation can be met with on-site preservation and natural regeneration, which is required in a conservation subdivision pursuant to Section 24-152(g)(2)(G) of the Subdivision Regulations.

The application of residential landscaping requirements found in the Landscape Manual and the Department of Public Works and Transportation (DPWT) street tree planting requirements will also further the tree cover policies of the master plan.

The 2002 *Prince George's County Approved General Plan* (General Plan) contains tier-specific and countywide-specific goals, objectives, and policies with regard to the protection of natural features, noise pollution, stormwater management, light pollution, and woodland conservation. Many of these policies have been implemented through updates to the WCO, zoning requirements, functional master plans, and applicable master plans that are discussed herein.

Applicable countywide-specific policies for this site include the following:

**POLICY 5: Reduce overall sky glow, minimize the spill-over of light from one property to the next, and reduce glare from light fixtures.**

The management of lighting in the Rural Tier in conformance with this policy is especially appropriate to retain and enhance the rural character of the development pattern. Public or private street lighting associated with the proposed development shall be full cut-off optics in order to comply with this policy.

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

The 2005 *Approved Countywide Green Infrastructure Plan* (Countywide Green Infrastructure Plan) indicates that the property is located entirely outside of the designated network of the plan; however, the Patuxent River is a designated special conservation area. The purpose of the sketch plan process is to delineate the areas of highest conservation value on the site. Areas defined on the natural resources inventory as "regulated environmental features" and as delineated as the

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primary management area (PMA) were given a high priority in the review of this site. The guidance provided by the Environmental Technical Manual for forest stand preservation priorities and the preservation of specimen, champion, and historic trees and other designated priorities for preservation on the site were also used as guides when evaluating the developable area of the site.

#### **Conformance with Priority Preservation Area Functional Master Plan**

The Priority Preservation Area Functional Master Plan (PPA Master Plan) designates this property within the Bowie and vicinity priority preservation area (Bowie PPA) in Subregion 3, which includes properties located in the Rural Tier, including those receiving agricultural assessment. The portion of the Bowie PPA includes protected and publicly-owned sensitive environmental areas east of Robert Crain Highway (US 301) and along the Patuxent River. It includes a predominance of Class I–III soils for farming and Class IV soils for forestry. Some parts of the proposed Bowie PPA are in the green infrastructure network, and there are parcels that are being considered for, or have, agricultural preservation easements on them. The area has appropriate zoning predominantly with zoning categories R-A, R-O-S (Reserved Open Space), and O-S (Open Space).

Bowie and vicinity was not evaluated for PPA during the Bowie and Vicinity Master Plan because the master plan was approved in the same year that House Bill 2 was passed in the Maryland General Assembly. House Bill 2 requires that counties seeking state certification of their agricultural land preservation program designate PPAs and add a PPA element to their comprehensive plan. However, documentation of agricultural land preservation in the Bowie-Collington area began in the early 1970s after the approval of the 1970 Master Plan for Bowie-Collington and Vicinity.

The PPA Master Plan contains policies and implementation strategies to reach the countywide goal of placing 23,682 acres under protective easement by the year 2027. The text in **BOLD** is the relevant text from the PPA Master Plan and the plain text provides comments on plan conformance:

#### **POLICIES AND STRATEGIES**

**POLICY 3: Minimize development in areas of prime farm and forest acreage to preserve critical masses of the agricultural land base.**

##### **Strategies**

- b. The conservation subdivision regulations for the O-S and R-A zones should be evaluated to determine if it is feasible to increase the amount of area required for preservation or conservation without changing density.**

The subject property is a conservation subdivision in the R-A Zone where two conservation lots are proposed for more than 50 percent of the property which includes the environmental setting for

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the historic site. The development option required and the density proposed is compatible with the goal of preserving 80 percent of the remaining undeveloped land in the PPA.

**POLICY 4: Preserve farm and forest land as important natural resources for their environmental and economic value.**

**Strategies**

- a. **Continue to utilize various county and other programs and policies such as the woodland conservation ordinance, to encourage protection of the PPA, obtain carbon credits, and maximize carbon sequestration.**

The current application was subject to the Woodland and Wildlife Habitat Conservation Ordinance, and the R-A Zone has a woodland conservation threshold of 50 percent. On-site woodland conservation is proposed for 21.44 acres of existing and regenerating woodlands, which is more than 51 percent of the gross tract area.

**Conformance with the Conservation Subdivision Regulations**

County Council Bill CB-4-2006 requires that the sketch plan process be completed before a preliminary plan of subdivision for a conservation subdivision is accepted. It is further required that the Planning Director or its designee certify the completion of the sketch plan process prior to acceptance of the preliminary plan. Certification of the sketch plan is not approval of a specific lot yield or layout, but the completion of the sketch plan process for planning purposes. Sketch Plan S-10002 was certified by the Planning Director on May 4, 2012.

The sketch plan was reviewed for fulfilling the intents listed in Section 24-152(f)(2)(a) of the Subdivision Regulations.

- (2) **The intent of the sketch plan is to clearly document the design process, and to prioritize the characteristics of the site to be preserved in a conservation parcel or lot. Priorities can be a combination of site characteristics and may include areas of the site not otherwise regulated by this Subtitle.**

- (A) **The sketch plan shall document the existing features of the site. The characteristics of the site are generally categorized as follows:**

- (i) **Scenic**
- (ii) **Agricultural**
- (iii) **Environmental, and**
- (iv) **Historic**

The sketch plan indicates what areas of the property are most developable, or where the conservation priority areas are located. The historic site (Conservation Lot 1) is Priority

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One for historic preservation, and also includes areas for woodland conservation, and the preservation of possible historic trees. Priority Two is the conservation parcel adjacent to Clagett Landing Road (Conservation Lot 11) which includes environmental and viewshed protection. Priority Three is located at the northern end of the property, where existing woodlands are proposed to be preserved. Two development areas are indicated. One is to the south of the historic site, which maintains the viewshed from Clagett Landing Road, as well as a large contiguous conservation parcel. The second development area is behind the knoll upon which the historic site sits, where it is shielded from views from Clagett Landing Road, maintaining a rural character in keeping with the tier designation.

The environmental characteristics of this site were previously documented in the signed Natural Resources Inventory (NRI-025-05), and was recently revised to reflect the environmental regulations effective September 1, 2010 and February 1, 2012, which required a revision to the NRI to include enlarged stream buffers in the Rural Tier, the expansion of the PMA to include the enlarged buffers, to show a critical root zone for specimen trees of 1.5 feet for every one-inch of diameter at breast height, and to include a condition analysis of the specimen trees on-site.

#### **Conformance with Sketch Plan Requirements**

The requirements for a sketch plan as included in the Subdivision Regulations are as follows:

- (B) The sketch plan shall include:**
  - (i) Existing grades at two-foot contours, and a non-disturbance line;**
  - (ii) Information on surrounding properties to evaluate the opportunities for connectivity between characteristics of abutting properties,**
  - (iii) Location and/or documentation of woodlands, farmland, farm structures, historic structures, streams, wetlands, scenic vistas, rock formations, hedgerows, pastures, cultural resources, unique views from streets and adjoining properties, and any other information pertaining to the character of a site. The sketch plan shall incorporate information from a signed natural resources inventory (NRI).**

The sketch plan shows existing grades based on two-foot contours. The sketch plan includes the location of the historic site, woodlands, and environmental features, incorporating information from the signed NRI-013-07. The Subdivision Regulations were amended on July 13, 2010 to include the following requirement:

- (I) The sketch plan application package shall include, on a separate sheet, a woodland and wildlife habitat conservation concept plan that illustrates areas proposed for conservation and includes a draft**

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**worksheet, showing how the requirements of Division 2 of Subtitle 25 will be met.**

A woodland conservation concept plan was submitted with the sketch plan application. Because a TCP1 is not approved with the sketch plan process, the concept plan submitted was not given a number and is not signed, but was used as part of the planning process prior to certification of the sketch plan.

#### **Environmental Review**

An approved revision to the Natural Resources Inventory (NRI-025-06) was submitted with the review package and was approved on October 3, 2012. The NRI shows regulated environmental features on the subject property. The forest stand delineation (FSD) plan indicates the presence of three forested stands totaling 4.78 acres and eleven specimen trees on-site. The project area has regulated environmental features in the southern portion of the site, with no impacts being proposed to these areas or buffers.

According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no records of rare, threatened, or endangered species found to occur on or in the vicinity of this property.

The property is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the gross tract area is greater than 40,000 square feet in size, the property contains more than 10,000 square feet of woodland, and there are no previously approved tree conservation plans for the property. A Type 1 Tree Conservation Plan (TCP1-010-12) was submitted with the review package.

The Conservation Subdivision Regulations indicate that the woodland conservation required for the site may be provided at an off-site location, only if it is necessary to preserve the rural and agricultural landscape. Because this site is almost entirely wooded, with few agricultural landscapes, all woodland conservation requirements should be met on-site.

The minimum requirement for this site is 18.73 acres (50 percent of the net tract area) plus additional acres due to clearing, for a total minimum requirement of 21.39 acres. The TCP1 proposed to meet the requirement entirely on-site with 21.57 acres of on-site preservation and on-site natural regeneration identified on the sketch plan. No revisions are necessary for conformance with the WCO.

Development of this subdivision shall be in compliance with the Type 1 Tree Conservation Plan (TCP1-010-12), approved as part of this application.

After September 1, 2010, pursuant to Section 25-122(d)(1)(B), woodland preserved, planted, or regenerated on-site shall be placed in a woodland conservation easement recorded in land records, and the liber/folio of the easement indicated on all plans of development. No development is proposed at this time, so the preparation of a TCP2 is not required prior to final plat, and a

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recorded woodland conservation easement will not be required until a TCP2 is prepared. When a TCP2 is prepared, prior to signature approval, recording of a woodland conservation easement in the land records will be required and the liber/folio of the easement will be placed on the TCP2.

A Subtitle 25 variance was requested as part of the current application for the removal of four specimen trees. The proposed removal of four specimen trees is evaluated below.

A Subtitle 25 variance may also be required for the removal of historic trees located within the environmental setting of the historic house, although no variance for historic tree removal is being requested at this time. An evaluation of the environmental setting using historic photography indicates that the historic structure stood atop of a knoll, with little surrounding vegetation in an agricultural setting. The 1938 aerial photography for the site confirms this assumption, and it is supposed that any large trees located near the historic house were fatally damaged in the fire which consumed the main section of the historic house. With the current application, the environmental setting for the historic site is being reduced and will be retained as CI. 1 related to requirements of the Subdivision Regulations. As a result, any request to clear, grade, or remove trees within the environmental setting will be subject in the future to review by the Historic Preservation Commission (HPC). A detailed historic tree survey was not undertaken of trees within the environmental setting at this time. Because of the wooded nature of the environmental setting, the capturing of every tree within the setting was found impractical with the current application, but would be appropriate if, in the future, tree removal or development activity was proposed.

The WCO effective September 1, 2010 requires that the removal of any specimen or champion tree requires a variance to Subtitle 25 of the Prince George's County Code.

Section 25-122(b)(1)(G) requires that:

**Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree's condition and the species' ability to survive construction as provided in the Technical Manual.**

The NRI and TCP1 indicate the site contains 11 specimen trees. The development envelope and circulation pattern proposed on this site affects four specimen trees identified on the site for construction of a joint access easement to six residential lots located on the northern portion of the site.

A Subtitle 25 variance application and statement of justification was received with the current application for removal of four trees as shown in the following table:

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ID #	Common Name	DBH	Condition	Comment
ST-2	Southern red oak	42 inch	Fair	Root damage and top damage
ST-3	Yellow poplar	39 inch	Excellent	None
ST-4	Yellow poplar	37 inch	Good	Some top damage
ST-5	Yellow poplar	39 inch	Fair	Some top damage

#### **Evaluation of Variance Application for Specimen Tree Removal**

Section 25-119(d) of the WCO contains six required findings **[text in bold]** to be made before a variance can be granted. The statement of justification submitted seeks to address the required findings for the proposed removal of four of the 11 specimen trees identified on the site.

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

The presence on the site of the historic Goodwood house requires special attention be paid to the site layout in order to protect its character and the integrity of its setting. During the review of the sketch plan, which established the parameters for the layout of the conservation subdivision, the HPC requested that the site be laid out so that the new dwellings would be oriented to face the Goodwood historic site. To meet this requirement, a new access drive was located between the new houses and the Goodwood site.

The site is also underlain by Marlboro clay, which is an unstable soil stratum. To keep the houses outside of the 1.5 safety factor line for the Marlboro clay, the structures needed to be located as far south as possible toward the Goodwood structure as discussed further.

Additional layout problems occurred on-site due to the limited number of approvable percolation tests that were found on the site. As a result, the joint access easement crosses over the proposed lots, separating the structures from the septic recovery areas in many instances.

Finally, the retention of the regulated natural features on the site, along with the preservation of rural viewsheds, further limited the location of lots to the area proposed on the plan application. In combination, these special conditions present on the site greatly limited the flexibility of the site design. Retention of the four specimen trees in question would have either required intrusion onto the environmental setting of the historic site, or have resulted in the loss of lots located on the northern portion of the property.

The three specimen yellow poplar trees proposed to be removed are known to be very intolerant of construction. Their location within the most feasible location for the ingress/egress easement would pose an unwarranted hardship to the development of the site if a variance for their removal was not granted.

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Specimen Tree ST-2 is a southern red oak in fair condition which is requested to be removed to provide necessary improvements to the historic drive accessing the historic site and new lots. Failure to grant a variance for its removal would present an unwarranted hardship to the retention of the historic drive, while allowing reasonable development of the site.

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

The statement of justification proposed that the failure to grant a variance for the removal of the four specimen trees would deprive the applicant of this right to subdivide his property, and notes that the allowable density of 18 lots was reduced to 11 lots due to other constraints present on the site. Retention of the specimen trees could further reduce the development yield to five lots. Based on staff's review, the greater public good derived from the retention of the historic site and revised environmental setting within a conservation subdivision supported removal of the four specimen trees in question to allow the exercise of reasonable development rights.

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

Granting of the variance will not confer a special privilege upon the applicant, but instead would allow the applicant to move forward with a greatly reduced scale of development on a very constrained lot, while providing for a greater public benefit in accordance with the conservation subdivision sketch plan.

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

The applicant has taken no action to date on the subject property.

**(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 trees does not arise from any condition on a neighboring property.

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

The stormwater management design for the site is required to meet the current regulations which require the post-development conditions to mimic a pre-development condition of a site as "woods in good condition." The stormwater concept shows the use of a variety of environmental site design features, such as bioretention in addition to extended detention. Because the site must meet strict water quality and quantity requirements, the loss of



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specimen trees should not have a significant adverse impact on water quality. Specific requirements regarding stormwater management for the site will be further reviewed and approved by DPW&T.

The required findings of Section 25-119(d) have been adequately addressed for the removal of Specimen Trees **ST-2, ST-3, ST-4, and ST-5**. Staff recommended **APPROVAL** in accordance with the findings contained herein.

This site contains regulated environmental features that are required to be protected under Section 24-130 of the Subdivision Regulations. The on-site regulated environmental features include the primary management area (PMA) on the subject property in accordance with Section 24-101(b)(10) of the Subdivision Regulations.

The Subdivision Regulations mandates that the PMA be preserved to the fullest extent possible. Staff generally recommends approval of PMA impacts for unavoidable impacts, such as the installation of public road crossings and public utilities, if they are designed to preserve the PMA to the fullest extent possible. Staff generally does not recommend approval of PMA impacts for lots, structures, or clearing and grading when alternative designs would reduce or eliminate the impacts. No impacts were proposed to the PMA .

If impacts are proposed to the PMA with the TCP2, a statement of justification will be required which specifically identifies the impacts and addresses the required findings at that time.

The site has frontage along Clagett Landing Road, a local roadway that is not regulated for noise. No additional information was required with regard to noise.

According to the U.S. Department of Agriculture, Natural Resource Conservation Service Web Soil Survey, the predominant soils found to occur on-site include the Adelphia-Holmdel, Collington-Wist, and Marr-Dodon soil series. None of these soils pose any special difficulty for development. This information is provided for the applicant's benefit. The county may require a soils report in conformance with County Council Bill CB-94-2004 during the building permit review process.

#### **Marlboro clay**

Marlboro clay also occurs on the site. Marlboro clay and areas with shallow water table are unsuited for placement of footings for foundations without mitigation and may require special treatment for engineering of streets. Section 24-131(a) of the Subdivision Regulations ("Unsafe land") allows the Planning Board to restrict or prohibit the subdivision of land in areas with high water table and unstable soils. According to maps prepared by the Environmental Planning Section the Marlboro clay layer was projected to occur between elevation 70 and elevation 85 mean sea level (msl).

Submittal of a geotechnical study, showing the elevation of the top and bottom of the Marlboro clay layer to assess the development potential of the subject property under Section 24-131(a)

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Unsafe Lands was requested at Subdivision Development Review Committee (SDRC) from the applicant a minimum of 35 days prior to the scheduled Planning Board hearing, which was not submitted as of the writing of the technical staff report.

A Preliminary Geotechnical Engineering Report prepared by Geotech Engineers, Inc and dated January 21, 2013 was submitted on January 25, 2013. The location and elevation of the Marlboro clay layer for the preliminary report was based on information obtained from percolation test reports performed on July 16, 1990. The preliminary report contained the following information:

“Available Soil Data:

“The perc(olation) soil data indicate that the site is generally underlain by Sandy loam. Marlboro clay was encountered below Sandy loam approximately between elevation 93 and 105. Sand and clay of Aquia formation were encountered below Marlboro clay. The groundwater table in this area varies from elevation 108 to 96, generally following the surface topography.

“Discussion:

“Marlboro clay was encountered approximately at depths of 6 to 21 feet below grade and was about 1 to 5 feet in thickness. The groundwater table recorded in the percolation tests was slightly above Marlboro clay layers.

“Since the proposed grading showed little or no cuts in the site, the overburden is not expected to be reduced.

“Considering the existing 10H (horizontal) to 1V (vertical) slope angle and proposed site grading, impact from the proposed development on the current slope is not believed to be significant. However, downspouts should be discharged at the bottom of the hill below the layer of Marlboro clay.

“Additional Study

“Soil test borings should be drilled to evaluate the subsurface conditions in detail. Soil laboratory tests and slope stability analysis should also be performed after more detailed subsurface data is obtained. Perched water conditions should be evaluated carefully based on the new soil boring data. Slope stability analysis should be performed for the final proposed slope and to develop 1.5 safety factor lines.”

A final geotechnical report based on the recommended soils borings which was necessary to develop 1.5 safety factor lines was not submitted as of the date of the report as requested.

Factors of Safety and Risk Areas

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Factor of Safety is a theoretical value: the ratio of Resisting Force to Driving Force. As the Resisting Force increases or the Driving Force decreases, safety increases. As the Resisting Force decreases or the Driving Force increases, safety decreases. The Prince George's County Department of Environmental Resources has set a minimum Factor of Safety of 1.5 for development near slopes affected by Marlboro clay.

A High Risk Area presents a situation of danger to persons or property. A Low Risk Area presents no danger to persons or property. In large lot development, e.g. the R-A (2 acres) and O-S (5 acres) zones, no development should occur in High Risk Area, but such areas may occur within a lot. In small lot development, i.e. lots with less than 40,000 square feet, no High Risk Area should occur on a lot. Because the site is being developed under the conservation subdivision approach, the lots within this proposed subdivision include lots under 40,000 square feet (Lots 9 and 10); lots between one and two acres in size, but with limited design flexibility because of limited options for septic recovery field locations; and a larger Conservation Lot 11 (CL 11) developed with a homesite.

Based on a Factor of Safety of 1.5, a zone in the area of slopes should be reviewed. The purpose of this Evaluation Zone is to establish areas near slopes that constitute a category of "unsafe land" as regulated by 24-131. As a rule-of-thumb in areas with no Marlboro clay, structures should be placed no closer to the toe-of-slope than three-times the height of the slope. In areas with Marlboro clay, the setback should be three-times the height from the toe-of-slope to the bottom of the Marlboro clay plus five-times the height from the bottom of the clay to the top of the slope. A site specific geotechnical report may show that development can be placed closer to the toe-of-slope by better defining the High Risk Area, especially if mitigation measures are taken as part of the development

The Subdivision Regulations contains Section 24-131(a), Unsafe Land, which provides the following guidance on the subdivision of land which is underlain by Marlboro clay:

- (a) The Planning Board shall restrict or prohibit the subdivision of land found to be unsafe for development. The restriction or prohibition may be due to natural conditions, such as, but not confined to, flooding, erosive stream action, high water table, unstable soils, or severe slopes, or to man-made conditions on the property, such as, but not confined to, unstable fills or slopes. The Planning Board shall require that proposed subdivisions conform to the following:**
  - (1) When the County Soils and Geological Map indicate that a portion of the land is unsafe, the Board may permit it to be platted as part of a lot in which there is sufficient land to erect a building within the building lines established by the zone in which the property is located, plus an additional twenty-five (25) foot setback between the structure and the unsafe area, which shall be indicated on the final plat with a building restriction line.**

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The unsafe portions of land containing Marlboro clay are delineated by identifying a 1.5 safety factor line using geotechnical methodologies based on soils borings. While some factors point to there being little potential for the 1.5 safety factor line being located on lots, on the smaller lots this determination is critical. If a 1.5 safety factor line were found on a lot, it could make the lot unplattable, or could create a requirement to delineate an additional twenty-five-foot setback between the proposed structures and the unsafe area, which would need to be shown on the final plat as a building restriction line (BRL). Whether there is a 1.5 safety factor line located on the proposed lots and the subsequent need to delineate a 25-foot building restriction line cannot be confirmed until the final geotechnical report is submitted.

- (2) If the unsafe land has, by subsequent change, become safe for building construction, upon appropriate findings by the Planning Board, the building restriction line may be removed by the recording of a new final plat approved by the Board.**
- (3) When the applicant proposes remedial actions to correct or alleviate the unsafe soil conditions, the Planning Board shall refer such proposals to the Chief Building Inspector for a determination of whether such measures are sufficient to protect the health and safety of future residents. The Board may approve the platting of such land, upon recommendation of the Chief Building Inspector, provided that covenants are attached to incorporate the remedial actions.**

If an unsafe land determination is made regarding any of the lots proposed in this subdivision, the property owner has the potential to provide appropriate mitigation and request permission to file a new plat based on the concurrence of the Chief Building Inspector.

- (4) The Planning Board may require that the owner(s) of any property on which unsafe conditions have been found to exist shall notify any potential purchaser of such conditions.**

A final plat note is required to provide notification to any potential purchaser of any unsafe land condition existing on the property.

Prior to final plat, a limited detailed site plan should be approved by the Planning Board or designee to address the issue of unsafe lands on the subject property. The purposes of the limited detailed site plan should be as follows:

- a. A geotechnical study, following at a minimum the "Criteria for Soil Investigations and Reports on the Presence and Affect of Marlboro Clay

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upon Proposed Developments” prepared by the Prince George’s County Unstable Soils Taskforce, shall be submitted for review and approval by the Prince George’s County Department of Public Works and Transportation to satisfy the requirements of Section 24-131 of the Subdivision Regulations and Section 4-279 of the Building Code.

- b. If an unmitigated 1.5 safety factor line is present, the 1.5 Safety Factor Line shall be shown on the limited detail site plan, and subsequent final plat prior to approval.
- c. No structures or septic fields shall be placed within the unmitigated 1.5 safety factor line unless proper mitigation has been provided.
- d. The Limited DSP shall be referred to the Prince George’s Health Department for evaluation of any impacts on proposed septic fields.
- e. If the applicant proposes remedial actions to correct or alleviate the unsafe soil conditions, the Limited DSP proposal shall be referred to the Chief Building Inspector for a determination of whether such measures are sufficient to protect the health and safety of future residents. Covenants may be required to ensure such remedial actions occur and the Liber Folio shall be reflected on the final plat, prior to approval.
- f. Lots may be determined to be unplattable and removed based on a determination of unsafe lands, unless mitigation is proposed, and approved as part of the Limited DSP.
- g. If appropriate, a twenty-five foot building restriction line shall be delineated for the affected lots on the detailed site plan and the final plat.

The location of the non-tidal wetlands on the site originally suggested a local groundwater elevation of 110 to 112 feet in elevation in the southern half of the site (Lots 9, 10, and 11). At that time, basement floor elevations of 98.9 to 103.5 feet msl were indicated that would have been impacted by the water table elevations.

The applicant has submitted water table elevations with the preliminary geotechnical study which indicate that the existing water table elevations are lower than previously predicted. DPW&T will review for water table elevations related to final grading. No further information regarding water table elevations was required by the Environmental Planning Section.

9. **Stormwater Management**—DPW&T, Office of Engineering, determined that on-site stormwater management (SWM) is required. A Stormwater Management Concept Plan, 23978-2010-00, was approved on November 26, 2012 and is valid until November 26, 2015. The concept plan shows the use of micro bioretention, landscape infiltration, roof top runoff disconnect, grass swales, and

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dry wells, which are appropriate for the rural character of the site. The concept plan is based on a development layout slightly different than that shown on the TCP1. Further revisions to the SWM concept plan may be needed, but they are not expected to be substantial or to affect the subdivision proposed. Development must be in accordance with the approved plan or any subsequent revisions as approved by DPW&T.

The approved SWM concept plan is required to be designed in conformance with any approved watershed management plan, pursuant to Subtitle 32, Water Resources and Protection; Division 3, Stormwater Management Plan; Section 172, Watershed Management Planning of the County Code. As such, the requirement of Section 24-130(b)(4) of the Subdivision Regulations, which requires that a subdivision be in conformance with any watershed management plan, has been addressed with the approval of the SWM concept plan by DPW&T.

10. **Department of Parks and Recreation (DPR)**— In accordance with Section 24-135 of the Subdivision Regulations, the Department of Parks and Recreation (DPR) recommended payment of a fee-in-lieu of mandatory dedication of parkland for lots 2, 6, 9 and 10 because the land available for dedication is unsuitable due to the size and location.

Additionally, DPR determined that the remaining lots, in accordance with Section 24-134(a)(3)(B) of the Subdivision Regulations, are lots being created by this subdivision that have a net acreage over one acre and are therefore exempt from mandatory dedication of parkland.

11. **Trails**—The proposed preliminary plan was reviewed for conformance with Section 24-123 of the Subdivision Regulations, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), and the *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, and 74B* (Bowie and Vicinity Master Plan) in order to implement planned trails, bikeways, and pedestrian improvements.

The Planning Board requires that preliminary plans conform to Section 24-123 in terms of bikeway and pedestrian facilities when 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.

The MPOT and Bowie and Vicinity Master Plan include no master plan trail recommendations on the subject site. The subject application is located in the Rural Tier east of Robert Crain Highway (US 301). Clagett Landing Road is designated as a shared-use bikeway in both the area master plan and the MPOT. Clagett Landing Road is one of the open section, low-volume roads that has been identified as appropriate for recreational bicycling and longer distance touring. It is envisioned that roads in the Rural Tier will also provide access to existing and future parkland and trails along the Patuxent River corridor. Clagett Landing Road is open section with no sidewalks along its entire length, including the frontage of the subject site. All of the roads immediately off Clagett Landing Road are also open section with no sidewalks, in keeping with the rural character. Bikeway signage is required to designate the bikeway and alert motorists to the possibility of

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bicycle traffic along the road. Improvements within the right-of-way will be determined by DPW&T, if appropriate.

The applicant proffered a private neighborhood trail connection linking the two otherwise isolated private access drives. The November 2009 *Approved Countywide Master Plan of Transportation* (MPOT), recognizes the importance of these types of neighborhood trail connections for transportation, recreation, and health and wellness. The MPOT includes the following policies regarding the provision of internal trail connections between and within communities.

**Policy 2**

**Provide adequate pedestrian and bicycle linkages to schools, parks, recreation areas, commercial areas, and employment centers.**

**Policy 9**

**Provide trail connections within and between communities as development occurs, to the extent feasible and practical.**

Trail connections allow residents to engage in more active lifestyles, make some local trips by walking and bicycling, and foster greater community interaction between and within communities. More specifically, the *Central Patuxent River Special Area Planning Study* (planning study) looked closely at the feasibility of additional trail connections on the east side of US 301 in the vicinity of Bowie. This planning study, which was completed in January 2003 and served as background information for the Bowie and Vicinity Master Plan (SMA), recommended the creation of a “formal, integrated trail system” in order to “foster community relations among residents by linking neighborhoods, recreational sites, community institutions, and historical assets via a network of hiking/equestrian trails and biking routes” (planning study, page 8). The bikeway along Clagett Landing Road and the internal soft surface trail proffered by the applicant meet the intent of the planning study, the recommendations of approved master plan, and the policies of the *Approved Countywide Master Plan of Transportation* (MPOT). This trail will also allow future residents greater opportunities to walk within the subdivision by providing a loop consisting of the two private access drives and the trail proffered by the applicant. In order to ensure the orderly development and use of the trail, staff recommended that a private pedestrian access easement in conjunction with the two private access drive easements be recorded in land records and the liber and folio of that document reflected on the record plat.

Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities will exist to serve the proposed subdivision as required under Section 24-123.

12. **Transportation**—The site is not within or adjacent to any master plan roadway facilities. The 11 lots being created would have frontage on two new private easements, which the Planning Board is authorized to approve pursuant to Section 24-128(b)(1) and 24-152(j)(2) of the Subdivision Regulations, and will connect to the proposed public right-of-way, Goodwood Court.

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Goodwood Court will be connected to existing Clagett Landing Road. Site access is discussed below in the Private Access finding.

The proposed right-of-way, Goodwood Court, and the dedication along Clagett Landing Road are acceptable as shown on the preliminary plan in consideration of the functions of each street. The traffic generated by the proposed preliminary plan will impact the critical intersection of Robert Crain Highway (US 301) and Clagett Landing Road. The proposed subdivision would generate 7 AM and 9 PM weekday peak-hour vehicle trips based on the "Guidelines for the Analysis of the Traffic Impact of Development Proposals" (Guidelines).

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

- a. **Links and signalized intersections:** Level-of-service (LOS) C, with signalized intersections operating at a critical lane volume (CLV) of 1,300 or better.
- b. **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 intersection identified above, when analyzed with existing traffic using counts provided by the applicant taken in June 2012 and existing lane configurations, operate as follows:

EXISTING TRAFFIC CONDITIONS		
Intersection	AM	PM
	Delay (seconds) (LOS/CLV)	
US 301 and Clagett Landing Road (Unsignalized)	+999	+999
Unsignalized intersections are analyzed using the highway capacity software. The results show the level-of-service and the intersection delay measured in seconds/vehicle. A level-of-service "E," which is deemed acceptable, corresponds to a maximum delay of 50 seconds/car. For signalized intersections, a CLV of 1450 or less is deemed acceptable as per the Guidelines.		



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The critical intersection of US 301 and Clagett Landing Road is not programmed for improvement with 100 percent construction funding of \$24 million within the next six years in the current Prince George's County Capital Improvement Program (CIP) FY 2013–2018. It is worth mentioning that, between the fiscal years of 1989 and 2010, the aforementioned CIP project was listed with 100 percent full funding within the six-year budget cycle of each year. However, regarding the current budget cycle, this program (FD 669161) provides funding for only \$100,000 within six years. The remaining \$23.9 million is shown beyond the six-year cycle. Pursuant to the Subdivisions Regulations, only improvements listed in a CIP that have 100 percent funding can be used to make an adequacy finding.

The most recent evaluation of the US 301 corridor between US 50/301 and Marlboro Pike (MD 725) was contained within the August 2010 traffic study, which was done in support of the preliminary plan for the Beech Tree commercial shopping center (4-09041). Since no new development along that US 301 corridor has been approved subsequent to the Beech Tree shopping center, staff used most of the background developments from that 2010 traffic study, including the now-approved Beech Tree shopping center. A second analysis was done to evaluate the impact of the background developments at the critical intersection. The following intersection, identified above, when analyzed with background traffic as developed using the Guidelines, were found to operate as follows:

<b>BACKGROUND TRAFFIC CONDITIONS</b>		
<b>Intersection</b>	<b>AM</b>	<b>PM</b>
	<b>Delay (seconds) (LOS/CLV)</b>	
US 301 and Clagett Landing Road	+999	+999

The following critical intersection identified above, when analyzed with the programmed improvements and total future traffic as developed using the Guidelines, including the site trip generation as described above and the distribution as described in the traffic study, operate as follows:

<b>TOTAL CONDITIONS</b>		
<b>Intersection</b>	<b>AM</b>	<b>PM</b>
	<b>Delay (seconds) (LOS/CLV)</b>	
US 301 and Clagett Landing Road	+999	+999

The results shown above were based on an approach volume of 100 AM peak trips and 74 PM peak trips. Pursuant to the Guidelines, unsignalized intersections that have an approach volume of 100 peak trips or fewer are deemed to be operating acceptably.

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**Transportation Conclusion**

The Transportation Planning Section concluded that adequate access roads will exist as required by Section 24-124 of the Subdivision Regulations. Dedication of the public rights-of-way shall be consistent with the preliminary plan of subdivision.

13. **Schools**—The proposed 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 concluded the following:

## Impact on Affected Public School Clusters

Affected School Clusters	Elementary School Cluster 3	Middle School Cluster 2	High School Cluster 2
Dwelling Units	11 DU	11 DU	11 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	2	1	2
Actual Enrollment	4,319	4,599	11,684
Total Enrollment	4,321	4,600	11,686
State Rated Capacity	4,943	5,540	13,106
Percent Capacity	87%	83%	89%

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 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 these surcharges to be adjusted for inflation and the current amounts are \$8,762 and \$15,020 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, renovations to existing school buildings, or other systemic changes.

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

The proposed development is within the seven-minute required 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.

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First Due Fire/EMS Company #	Fire/EMS Station	Address
43	Bowie	16408 Pointer Ridge Drive

Pursuant to County 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 fire and rescue personnel staffing levels.

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

The subject property is located within the Rural Tier. In accordance with Section 24-122.01(d)(2) of the Subdivision Regulations, "before any preliminary plan may be approved, if the location of the property proposed for subdivision is outside the appropriate service area of the Ten Year Water and Sewerage Plan or is in the Rural Tier, the Planning Board shall require the subdivider to provide water storage tanks, the availability of water tanker trucks, or other appropriate source of water for fire extinguishing purposes."

#### **Capital Improvement Program (CIP)**

The Capital Improvement Program for Fiscal Years 2012–2017 provides funding for a new fire/EMS station on Leeland 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."

15. **Police Facilities**—The subject property is located in Police District II, Bowie. 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 September 28, 2012.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 09/28/2012	8/2012-7/2011	7 minutes	11 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on October 5, 2012.

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16. **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 sewage for preliminary or final plat approval.”

The 2008 Water and Sewer Plan designates the subject property in water and sewer Category 6 and the site is therefore in the appropriate service area to be served by individual well and septic systems.

On November 20, 2012, the County Council adopted Council Resolution CR-83-2012 and Council Bill CB-104-2012, which adopted the county’s Sustainable Growth Tier Map pursuant to Section 9-206 of the Environmental Article of the Maryland Annotated Code. The map identifies where major and minor residential subdivision may develop and the type of sewage disposal system that will serve them. Specifically, in this instance Section 24-122.01(b)(2) of the Subdivision Regulations provides:

- (2) **Applications filed on or after October 1, 2012, pursuant to the Sustainable Growth Act Section 9-206 of the Environment Article, the following restrictions apply to residential subdivisions:**
- (i) **Tier I All lots shall be served by public sewer.**
  - (ii) **Tier II All lots shall be served by public sewer; or if the subdivision is a minor subdivision it may be served by on-site sewer disposal systems.**
  - (iii) **Tier III All lots shall be served by on-site sewer disposal systems.**
  - (iv) **Tier IV All lots in a minor subdivision shall be served by on-site sewer disposal systems. A residential major subdivision served by on-site sewer disposal systems is not permitted.**

The subject property is located in Growth Tier IV, which requires that subdivisions that are to be served by on-site sewer disposal systems be limited to minor subdivisions only. This preliminary plan was accepted on September 28, 2012 which is prior to October 1, 2012 and prior to the adoption of the Sustainable Growth Tier Map and, therefore, the Sustainable Growth Act is not applicable to this preliminary plan. However, if this application had been withdrawn or disapproved by the Planning Board, any new preliminary plan on the site would have been subject to the Sustainable Growth Act and specifically to Section 24-122.01(b)(2)(iv).

17. **Health Department**—The property is located within water and sewer categories 6. Development of the subdivision is projected to utilize individual sewage disposal systems. Each of the lots has sufficient percolation tests to accommodate a 10,000-square-foot or larger sewage disposal area, as required by the Subdivision Regulations for the approval of a preliminary plan of subdivision.

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Additional criteria, beyond percolation testing, will be evaluated to determine if a sewage disposal permit will ultimately be issued for a specific lot. The site development grading, required storm water management devices and location of the proposed structures are all potential sources of challenges associated with conflicting development requirements. The applicant should be aware that any disturbance of the proposed sewage disposal area or any other conditions causing the tested lot to be in violation of the Prince George's County Code, Subtitle 22, may result in additional percolation tests being required and could possibly result in having the lot declared unbuildable until public sewer is available to the property. In addition, supplementary percolation tests may be required after three years from the date of testing, or if the percolation requirements under which the original tests were conducted are no longer valid.

Development of the subdivision is projected to utilize individual water supply systems. A water appropriation and use permit must be obtained from the Water Supply Program of the Maryland Department of the Environment prior to final plat approval.

The existing well on proposed Lot 4 must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller, or as witnessed by a representative from the Health Department, prior to final plat approval.

18. **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 will 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 delineated a ten-foot-wide public utility easement (PUE) along the right-of-way as requested by the utility companies.

The property is encumbered by an existing overhead electric line which extends east and west across the entire property. The applicant has proposed to relocate a portion of the overhead electric lines on Conservation Lot 11 (CL 11) and bury the lines within the proposed PUEs. The preliminary plan shows that the electric line will run from an existing pole on the western side of CL 11 (outside of the PMA), run underground to serve all of the proposed lots and then run east to an existing pole at the eastern side of CL 11 near the cul-de-sac of Goodwood Court. The final alignment of the new electric line shall be determined by the applicant and Baltimore Gas and Electric (BG&E), prior to the final plat including any additional PUEs to accommodate the new alignment shall be provided prior to the approval of the final plat.

19. **Historic Preservation**—The proposed subdivision on the subject 37.45-acre property located on the north side of Clagett Landing Road includes the Goodwood Historic Site (74B-014) and its 4.59-acre environmental setting. Goodwood was designated a Prince George's County historic site in 1981 through the county's first Historic Sites and Districts Plan. Goodwood is a two-story, brick, Federal-style dwelling that is the west wing, the oldest and only surviving section, of a

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three-part mansion. This wing was constructed c. 1799 as a dwelling, and by c. 1830 it became part of a much larger house when a three-story central block and a balancing easterly two-story wing were added. Goodwood was the home of George Calvert and later of his daughter, Eugenia Calvert Carter, at the time of her marriage to Charles H. Carter. A fire in 1934 destroyed the central block and east wing, leaving only the original west wing, which is known as Goodwood. The c. 1799 portion of the house was improved with a one-story wing to the west c. 1968. An uncompleted modern wing, incompatible with the character of the historic site, was added to the c. 1968 addition in the 1990s without an approved historic area work permit (HAWP) or county building permit. The property has been uninhabited for many years and is in deteriorating condition as portions of the building remain exposed to the elements and are covered with dense vegetative growth.

In March 2006, a Phase I archeological survey was conducted on the subject property in anticipation of the submittal of a development proposal for the 37.39-acre parcel within which the Goodwood historic site is located. A total of 166 shovel test pits were excavated across the subject property. A bottle dump was identified on the slope to the north of the house. One 1-x-1 m test unit was excavated within the dump area to determine the age and depth of the deposit. The area appears to have been used as a household dumping area from the late nineteenth to early twentieth century. This midden was designated as an Archeological Site, 18PR820.

An additional pedestrian survey was conducted across the property in November 2006 to identify several structures that are visible in the 1938 aerial photograph. Area A was the location of a collapsed shed with a corrugated metal roof located near the bottle dump. Area B is a slightly raised area in the northwestern portion of the study area that contained a small amount of roofing and timber. Area C was the location of a former structure represented only by a pipe sticking out of the ground. Due to the small number of artifacts recovered around the outbuildings and the lack of research value, no additional work was recommended in those areas.

A sample of artifacts was recovered from the bottle dump to the north of the house (18PR820) and no additional investigations were recommended there. Some intact cultural deposits were noted in the immediate vicinity of the house. If this area will be disturbed by proposed construction, then additional investigations are recommended.

Staff concurred with the consultant report's recommendations and conclusions that no further work was required on the Goodwood property. However, if the area within the immediate vicinity of Goodwood will be impacted by the development proposal, further archeological investigations will be necessary through the HAWP process. Four copies of the final report, A Phase I Archaeological Investigation of the Clagett Landing Estates Property, Prince George's County, TCP II-33-06, were submitted to the Historic Preservation Section and were approved on February 2, 2007.

20. **The Historic Preservation Commission (HPC)**—The Historic Preservation Commission (HPC) reviewed the subject application as part of its January 15, 2013 agenda.

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In November 2001, a preliminary plan of subdivision for the Goodwood property (4-01084, Clagett Landing Estates) was submitted to the Planning Department for review. At that time, the environmental setting of Goodwood was its entire 37.39 acre parcel. This plan involved creating a 16-lot subdivision. Goodwood House was contained within Lot 11 which was approximately 4.60 acres. The applicant submitted a request for determination of environmental setting on February 4, 2002 to the Historic Preservation Section. The applicant delineated the 4.60-acre lot (Lot 11) surrounding Goodwood as the proposed environmental setting. The request was reviewed at the February 19, 2002 HPC meeting. After reviewing the staff report, the testimony, and the discussion at the public hearing, the HPC, under authority of Section 29-106(a)(10) concluded that the requested revision to the environmental setting should be granted. Preliminary Plan 4-01084 was withdrawn by the applicant on February 26, 2002 and not reviewed or approved by the Planning Board. Nevertheless, the 4.60±-acre environmental setting stands.

The subject application proposes a conservation subdivision to include 11 single-family residential lots in the Rural Tier, which includes the existing historic house (CL 11). The subject property is zoned R-A, Rural Agricultural, which provides for large-lot residential uses, while encouraging the retention of the historic site and its environmental setting as the primary opportunity for conservation. A conservation subdivision is required pursuant to Section 24-152 of the Subdivision Regulations, and is the only option for major subdivisions of land in the Rural Tier, accepted prior to October 1, 2012. The purpose statement for Section 24-152 states:

- (b) Purpose. The purpose of a conservation subdivision is to protect the character of land through the permanent preservation of farmland, woodland, sensitive natural features, scenic and historic landscapes, vistas, and unique features of the site in keeping with the General Plan and Countywide Green Infrastructure Plan. The standards in this Section provide for lots, open space and internal street designs that conserve woodlands, farmland, farm structures, historic structures, and the scenic and unique character of development sites. A conservation subdivision prioritizes site characteristics for conservation and is intended to create a site layout that conserves important site features such as open space networks, blocks of productive farmland, unique characteristics of a site and contiguous woodland habitats. The site design should encourage agricultural pursuits, create attractive development layouts respecting existing features of the site, and encourage connectivity between scenic, historic, agricultural, and environmental characteristics of abutting properties.**

The required conservation subdivision sketch plan, reviewed by HPC on November 15, 2011, provided an inventory of the site that prioritized its unique characteristics for conservation, and created a conceptual site layout that conserves important features of the site. The sketch plan was certified by the Planning Director and attested that the site inventory planning process was completed. The preservation of the Goodwood House historic site was established by the applicant as the number one priority for conservation for this subdivision. The certification is an administrative process and is not the approval of the plan or its layout, but establishes a foundation

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on which to design the subdivision. In its review of the sketch plan, HPC forwarded a number of recommendations to the Planning Director. Several of those recommendations are reflected in the subject application; only those that represent remaining issues are repeated as noted:

To ensure the compatible integration of new development adjacent to the Goodwood historic site, all subsequent plans and applications for the development of the subject property should include and address the following:

- (1) A Type E bufferyard (60-foot building restriction line and a 50-foot landscape buffer) as required by the Prince George's County Landscape Manual for all lots adjoining the environmental setting of the historic site.
- (2) The applicant should demonstrate views to and from the Goodwood historic site environmental setting and ensure that the rear or side elevations of proposed new houses do not face the historic site. Garages of proposed houses should be side-loaded and not face the historic site.

A site visit to the property attended by the owner, the owner's engineer, and staff from the Planning Department's Historic Preservation, Subdivision, and Environmental Planning Sections was conducted on October 23, 2012. At the site visit, interior and exterior conditions at the historic site were observed, as were the topography and vegetation immediately surrounding the house.

As a result of the conditions observed by staff on October 23, 2012, both the applicant and his representative were advised by staff of the severity of these conditions and the need to immediately address them to ensure the long-term stabilization and rehabilitation of the historic site that is the basis for this conservation subdivision.

Based on observations from the October 23, 2012 site visit, staff noted that current and longstanding conditions at Goodwood represented health and safety concerns that could result in the avoidable loss of this important property and demonstrated demolition-by-neglect of the resource. Illegally constructed additions and incompatible additions to the house have been made, have never been completed, and have been allowed to deteriorate. The exterior of the historic portion of the house was overgrown with ivy and other invasive vegetation; adjacent shrubs were not trimmed and seedlings had been allowed to take root near the foundation and walls. As a result, a number of trees had been allowed to compromise the integrity of the foundation, exterior masonry, and the roof. Further, the conditions of the interior reflected a state of general deterioration and the long-term deposition of inflammable building materials, carpeting, furniture, and other debris, all of which pose significant dangers. Due to the fact that numerous door and window openings remained open to the elements or were easily breached, the building's interior included a number of animal carcasses in varying states of decay.

All of these conditions were highly destructive to the character and integrity of the house and presented the possibility of a determination by HPC that the property is the subject of demolition-by-neglect, as defined in Subtitle 29-102:



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- (4) **Demolition by Neglect: A condition where the principal structure of a historic resource has become unsafe as a result of any of the following conditions:**
- (A) **The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or**
  - (B) **The deterioration of the foundations, exterior walls, roofs, chimneys, doors, windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.**

The incomplete addition to the west side of the historic site (apparently constructed between 1993 and 1998) was initiated without the approval of a HAWP or other county permits. This addition is incompatible with the historic character of the historic site and should be removed to allow for the remaining portions of the building (c. 1799 and c. 1968) to be stabilized and rehabilitated for future residential use.

Because of the historic and architectural significance of the Goodwood historic site, the applicant should address the potential visibility of proposed new construction within the property from the Goodwood house to determine whether or not new construction should be the subject of a detailed site plan for architecture that would be referred to IIPC for review and comment prior to approval by the Planning Board.

At the request of staff, the applicant developed two cross-sections through the property to demonstrate both the relative heights of the Goodwood historic site and selected locations of new construction, and to illustrate the potential visibility of new building sites from the historic site. Staff also requested that the application provide photographs from the historic site to a number of building sites to determine the visibility of new construction and to depict the character of any intervening woodland. The photographs provided were taken in November 2012.

The applicant's proposed subdivision layout provides for a total of 11 building lots including one that contains the historic site (CL 1). Each of these lots requires the installation of septic recovery areas for each existing or proposed dwelling. Recovery areas for the ten proposed new dwellings are to be located across the street and generally uphill from the new house sites; these recovery areas will be located within existing wooded areas that ring the knoll on which the historic house is located. The location of these recovery areas is driven by the hydrology of the site. The applicant proposed to include land associated with these septic recovery areas for proposed Lots 2-11 within a revised and enlarged environmental setting for the historic site.

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At its December 18, 2012 meeting, the HPC was briefed on conditions at the property and the general character of the proposed conservation subdivision. The property owner, the property owner's engineer, and the property owner's legal counsel were present; the engineer and the legal counsel provided comments to HPC and responded to questions from HPC and staff.

At the meeting, staff described in detail the conditions at the property and reiterated that the certified sketch plan (S-10002) established that the first priority for preservation for this conservation subdivision is the historic site and its environmental setting, and that without a plan to ensure that the historic site will be preserved, the basis on which this subdivision could be approved does not exist. The HPC also discussed in detail with the applicant the conditions at the property to be remediated in the short-term to avoid the initiation of a demolition-by-neglect proceeding. The applicant stated his willingness to address these conditions before returning to HPC for a more detailed review of the subject application.

Specifically, the applicant agreed to address the following specific conditions: (1) removal of all trees and shrubs within ten feet of the perimeter of the house (including vines growing on the exterior walls) and the installation of temporary organic material around the foundation to preclude the establishment of vegetative materials; (2) the removal and proper disposal of all material currently stored or found in the interior of the house including furniture, building materials, carpets, liquids, books, paper, and organic matter; (3) the closure and securing of all windows, doors, and open elements of the façades or roof of the house to preclude infiltration by the elements, plants, or animals (in a manner that provides for proper ventilation of the interior; and (4) capping of any water and/or electrical service to the house, the failure of which could further damage the structure.

HPC and the applicant agreed that the completion of these tasks before the January 15, 2013 HPC meeting would: (1) avoid the initiation of demolition-by-neglect proceedings; and (2) enable HPC to make recommendations of approval, with conditions, to the Planning Board.

At its January 15, 2013 meeting, HPC received testimony from the applicant on the recently conducted clean-up of both the interior and exterior of the historic site and the applicant's proposed site plan. The applicant provided HPC with copies of a revised site plan that had not yet been accepted by the Planning Department. This revised site plan addressed, among other things, the relocation of the house sitting on proposed CL 11, the addition to the area of proposed woodland conservation to CL 11, and the revision of the proposed environmental setting from its current 4.6 acres± to a portion of proposed CL 1 of approximately 3.94 acres. This revised plan had not yet been submitted to or reviewed by Historic Preservation Section staff. There was a detailed discussion about the definitions, scope, and timing associated with work proposed as both stabilization and rehabilitation. The applicant indicated that, at this time, they would prefer that the unpermitted and incomplete additions remain in place during the stabilization and rehabilitation process, and acknowledged that, in order for those additions to be retained permanently, the Department of Environmental Resources and HPC would be required to approve a building permit and a HAWP, respectively. If either agency's required permit was not issued, the applicant acknowledged that the additions would have to be removed. After the close of discussion, HPC

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voted 7-0-1 (the Chairman voted "present") to adopt the staff recommendations in the memorandum dated January 14, 2013 and forward them to the Planning Board. After the vote, HPC directed staff to work with the applicant to clarify the definitions, scope, and timing of the stabilization and rehabilitation measures included in the HPC recommendations and, if necessary, to return to HPC in February to address any unresolved issues.

At the January 15, 2013 meeting, HPC took a separate action on the applicant's proposed revision to the Goodwood Historic Site (74B-014) environmental setting. That action, approved by a 7-0-1 vote (the Chairman voted "present") revised the setting to approximately 3.94 acres  $\pm$  within proposed CL 1.

HPC did not have the opportunity to review the applicant's most recent site plan revisions which were accepted by the Planning Department until after the January 15, 2013 HPC meeting. Therefore, the most current site plan returned to HPC to determine the impact on the historic site of the proposed relocation of the dwelling CL 11 and the visibility of the house to be located there. In addition, returning to HPC provided an opportunity for the applicant and staff to address any outstanding concerns about the definitions, scope, and timing of the stabilization and rehabilitation work recommended by HPC as conditions of the Planning Board's approval of the subject application.

The applicant and the Subdivision Review staff met on January 28, 2013 to discuss a draft document proposing definitions and guidelines for the stabilization and rehabilitation work to be carried out at the historic site. For the record, the guidelines are provided here:

#### *General Guidelines for Stabilization and Rehabilitation Plan*

*Stabilization* – The process of temporarily protecting a historic building or structure until rehabilitation or restoration efforts can begin; typically includes making the building weather-tight, structurally stable, and secure against intruders on a one-time basis. (Bucher, W., Dictionary of Building Preservation)

*Rehabilitation* – The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values. (Secretary of the Interior's Standards for Rehabilitation)

#### *Background*

Historic buildings are constructed of materials that often require specialized repair techniques, both to protect the materials themselves as well as to protect the overall historic character of the structure. The Secretary of the Interior's Standards provide accepted guidelines for restoring and rehabilitating historic buildings, but are not specific to every condition, and are therefore somewhat subjective and open to interpretation. In general, however, the plan to rehabilitate Goodwood assumes that the original building

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materials shall be saved and appropriately repaired whenever possible, and that there are known techniques for accomplishing this goal. When original materials are deteriorated beyond repair, they may be replaced by like materials that accurately replicate the original in both composition and design. The rehabilitation specifications set forth in future Historic Area Work Permits shall strive to meet these principles.

#### *General Conditions Assessment and Recommendations*

The property owner shall give priority to repairs needed to prevent deterioration of the building. The evaluation of the physical conditions of Goodwood (conditions assessment report to be undertaken by the property owner) should prioritize the stabilization and rehabilitation procedures for the entire project. The evaluation should further prioritize the procedure specific to each area and its condition. In some cases priorities may overlap, may be handled simultaneously, or their order may be less critical if the project is moving along rapidly. The identified Stabilization and Rehabilitation work shall be carried out according to development conditions recommended by the Historic Preservation Commission and approved by the Planning Board as part of preliminary plan 4-12016, Daniels Landing Estates.

#### *Stabilization Exterior and Structural Elements of Interior (includes Historic Block and Non-Permitted Additions)*

**Stabilization Measures** - As top priority, a number of stabilization measures should be taken to prevent further damage from occurring before the necessary repairs can be made.

The stabilization objective, in general terms, is to seal the exterior to the weather as soon as possible and to make the building structurally stable. Interior rehabilitation work, not subject to Historic Preservation Commission review, other than structural elements, can wait until all exterior work is completed, based on identified conditions. For example, if the windows cannot be addressed until later, a priority will be to assure that the existing windows are protected and that the window openings are sealed against the weather.

#### *Key Stabilization Priorities*

- Stabilize the roof of the historic block and additions. The roof should be secured from leaks as a first priority. Necessary repairs to the roof shall be promptly completed to prevent water damage.
- Ensure that all gutters and downspouts are working properly. If downspouts are missing, replace them as soon as possible or provide a temporary system to direct the flow of water away from the roof and building foundation. This is particularly crucial around the historic portion of the structure to prevent water damage to the 18th century masonry. Provide splash blocks and/or assure that water flows away from the building perimeter.

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- Cover and ventilate all windows, doors and voids. This will prevent water, dirt, debris, animals and other elements from entering the building and causing further damage to it. Retain, maintain and/or install ventilated plywood coverings over the broken windows until such time that the windows are permanently restored and/or replaced. This passive ventilation system shall reflect best practices and preclude infiltration from elements outlined above.
- Ensure proper drainage away from the building foundation to allow the foundation and walls to shed water; if necessary shedding of water by adding soil around the foundation.
- Existing locks on doors and windows shall be retained and/or maintained or upgraded to adequately secure the property from intrusion and vandalism.
- The integrity of the structural systems of the historic block must be examined to establish benchmarks to be addressed (as necessary) and monitored; carpentry elements throughout (lintels, sills, woodwork, etc.) must be inspected for possible termite damage to determine if any such damage has compromised the integrity of these members, as needed, and if there is ongoing insect activity, a professional exterminator must be hired to ensure the elimination of all termites or other wood-boring insects; any necessary repairs shall be made. Whenever possible historic carpentry elements with minimal damage shall be filled with an epoxy wood filler and hardening product, rather than replaced.
- Landscape maintenance – the perimeter of the structure shall remain in a cleared condition to preclude regrowth of vegetation to allow for proper ventilation and to preclude further damage to the building.
- At no time shall flammable building materials or equipment be stored in or near the building.

*Rehabilitation Exterior Only (Historic Block)*

- The roof system of the historic block shall be fully repaired, restored, or compatibly replaced, if necessary. The roof shall be repaired or reinstalled with materials sympathetic to the age and design of the building. Install new fascia and eave boards where needed. Prime and paint with two coats good quality exterior semi-gloss acrylic latex paint.
- Structural Wall and Floor Systems - Further inspection of the exterior brick walls of the historic block must be examined for compositional integrity. Structural and

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material analysis must be conducted to determine the extent of the damage at various sections of the historic block. Significant water damage and exposure to the elements have deteriorated the bricks and mortar joints.

- Foundation and Brickwork on Exterior Walls - One of the main issues with the brickwork is spalling and disintegrating brick around certain windows (above the lintels/headers) and other areas. Some bricks may have become loose due to failing mortar. Much of this deterioration has been caused by water. Remove all the vegetation from around the foundation and exterior walls (once this growth has fully desiccated). Removal will enable further investigation. Tuck pointing may be needed on certain areas of the foundation. Further investigation will reveal additional areas to be addressed.
- Replace spalled bricks around window and other areas of the exterior walls. If able, reuse the existing bricks by turning them around so that the spalled surface is now on the inside. If unable to reuse the brick, replace with a brick that is similar in color and composition. Repoint the area with compatible mortar (mortar analysis may be necessary).
- Masonry shall be repaired or replaced with the same or comparable material that matches the bond, size, color and texture as the existing material. Mortar used shall match the color and texture of existing mortar. If the exterior of the building is to be painted, this will be done following best practices, and only after any identified masonry rehabilitation issues have been properly addressed. Care shall be taken to employ properly constituted paint and application techniques.
- Windows and Doors - Exterior windows and doors and their trim moldings, transoms, headers, etc., are considered key elements in defining the historic character of buildings as they appear to the public view. For this reason, their rehabilitation should take precedence over less critical aspects of a building's construction details. Replacement should be a last resort. Security is of course an important consideration, so hardware must be made to function or be replaced with appropriate styles with working locks. Storm windows are recommended for energy efficiency as well as the protection they provide for the newly restored units. Care should be given to selecting a style of new storm units that does not obscure the original window or door. Storm windows should be installed on the window frame stop, rather than on the exterior casing.

Where the sashes have come apart, they should be repaired whenever possible. If individual sash pieces are deteriorated beyond repair, replacement by the piece is recommended. When entire sash are missing or otherwise require replacement, the new sash should match the originals in all details. The sash should be removed for repair, and the repairs should include scraping or finish sanding and priming prior to the installation of glass. Once re-glazed, the window sash should receive two

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coats of paint. Painting over the glazing putty will give it a longer life, seal it to the glass, and help prevent mildew growth. It must be assumed that the wood trim will require scraping or sanding, minor epoxy or wood filler repairs, and painting. Typically, the exterior wood sills are in the worst condition. They can be consolidated with wood epoxy, but should be replaced if rotted beyond repair.

- Remove exterior doors and repair or replace with historically compatible doors. Install new locking hardware per door.
- Repair exterior window and door trim as necessary.
- Sand, prime and paint all window sashes, doors, and exterior window and door trim with two coats good quality exterior acrylic latex paint.
- Install new exterior storm windows.

Every effort shall be made to maintain a clean and neat construction site while before or during the rehabilitation process. Particular attention shall be paid to the proper storage of flammable building materials or equipment; these materials shall not be stored in the building but may be stored on the property in a secured location at a safe distance from the building.

This brief report and related work program intends to provide an understanding of the important historic fabric of Goodwood. The property owner must conduct a comprehensive evaluation of the existing physical conditions of this fabric to clarify and prioritize the required scope of work necessary to rehabilitate the historic block. Priorities must be listed within each category or area of concern, and, in turn, the categories themselves should appear in their order of importance. It should be clear that within this format many options remain. Certain decisions regarding the order and relative priority of the scope of work depend on whether all of the work can be undertaken in one phase or if certain tasks will be phased in later.

Historic Preservation Section staff emphasizes that the ultimate survival of Goodwood as a historic artifact and county designated historic site will require that most of the recommendations are undertaken in the manner prescribed. This is especially true of the scope of work regarding the most visible exterior fabric. For this reason, the property owner's conditions assessment report must strive to be explicit about the quality of the historic fabric and its current condition. As much as possible, the assessment report should not only recommend the work necessary, but should convey the approved methods for accomplishing that work when dealing with this specific structure.

Not all contractors are familiar with historic techniques and applications, regardless of their general skill. If contractors are requested to bid this work, and they should be, it is important that they understand the recommended methods as they relate to historic buildings in general, and to

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Goodwood in particular. The eventual choice of a contractor may depend as much on his or her ability to apply the prescribed methods as it does on the bid price.

At its February 19, 2013 meeting, the Historic Preservation Commission was briefed by staff on the revised preliminary plan application and the details and timing of the proposed stabilization and rehabilitation plans and guidelines for the historic site. The applicant's representatives indicated agreement with the proposed plans and the proposed revised recommendations to the Planning Board. The HPC expressed concern about the ability of potential purchasers of the historic site to be informed about the additions to the structure that are unpermitted and incomplete and the requirement that they be approved by both DER and the HPC.

The development of the subject property is inextricably linked to both its historic and natural features. Therefore, the preservation of the historic site is a key element in the HPC's ability to recommend approval of the requested conservation subdivision by the Planning Board. Although the applicant has made efforts to retain existing wetlands and woodlands within the property, only limited efforts to ensure the long-term preservation of one of the county's most significant 18<sup>th</sup> century residences have been made to date.

The continued presence of unpermitted and unapproved portions of the building, particularly incomplete additions initiated in the 1990s, does not indicate that these features shall be retained in perpetuity. Formal determinations must be made by both Prince George's County and by the Historic Preservation Commission regarding whether these additions, in any form, can be found to meet both county building codes and the Historic Preservation Commission's policies and guidelines associated with the Historic Area Work Permit (HAWP) process, as required of any additions or alterations to the exterior of a historic site or its environmental setting. Although these additions may be allowed to remain in the short term during the stabilization and rehabilitation of the historic site, there is no guarantee that they will be allowed to remain as permanent elements of the historic site.

The applicant should be commended for the completion of the remediation of adverse conditions at the historic site as documented in photographs received by staff on January 7, 2013, and as verified by staff in the field. However, these stopgap measures should be considered to be only an initial step in the ultimate and required preservation of the property. In its current state, the historic site remains uninhabitable and considerably more effort must be expended to provide for its long-term preservation. The applicant should be required to perform affirmative maintenance on the property until the rehabilitation or preservation of the house is accomplished, or the house is sold or transferred to another party. The applicant shall be required to verify conditions at the property and confirm the completion of affirmative maintenance through the submittal of semi-annual written reports to the HPC that describe and illustrate conditions at the property.

The recommendations on the subject application made by the HPC to the Planning Board address the required short-term stabilization and long-term preservation of the Goodwood Historic Site prior to final plat for the proposed subdivision by the applicant, his heirs, successors, and/or assigns.



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Specifically, the HPC recommended that the Planning Board require: (1) the enclosure of all portions of the building in a secure manner that precludes infiltration by the elements, plant materials, animals or unauthorized persons; (2) the analysis of any structural, architectural or systems deficits the historic portions of the building present by a qualified preservation architect, engineer, or contractor; and (3) the stabilization and rehabilitation of the building to return it to a state of utility through repair or alteration that makes possible a reasonable contemporary use while preserving those features that are significant to its historical, architectural, and cultural values. As appropriate, the work outlined above should be carried out through an Historic Area Work Permit application approved by the Historic Preservation Commission before the approval of final plats for the development. However, the applicant should be encouraged to submit a Historic Area Work Permit for the required stabilization and/or rehabilitation of the property as soon as possible to avoid the prospect of a demolition-by-neglect proceeding.

The proposed layout provides for the front elevations of all new construction to face the historic site. The cross sections and photographs provided seem to address the concern for the visibility for new construction from Goodwood. However, the currently proposed location of Lot 11 renders new construction in that location substantially visible from the Goodwood Historic Site environmental setting. As a result, new construction in this location should be subject to a limited detailed site plan for architecture that would address the design, height, form, materials, and colors of any elevations visible from the historic site.

The applicant's proposed layout attempts to address the buffering requirements for this property found in the *Prince George's County Landscape Manual*. In this instance, a Type E bufferyard (50' foot landscape buffer and a 60' building restriction line) is required. Based on the current layout, most of the proposed lots provide the required buffer area and building setback; for those lots that do not meet Landscape Manual standards, Alternative Compliance and the installation of additional plant materials may be required.

The proposed layout also provides for a shared property line between the historic site (CL 1) and proposed Lots 2 and 3, which was adjusted to conform more directly to the existing pattern of open space north of the Goodwood house and its entry drive. Specifically, these lot lines were adjusted to more directly reflect natural topography and existing tree lines as a common property line.

21. **Private Access**—The proposed preliminary plan proposes two separate private access easements pursuant to Sections 24-128(b)(1) and 24-152(j)(2) of the Subdivision Regulations which state:

(b) **The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:**

- (1) **In the O-S, R-A, R-E, and R-R Zones, a private right-of-way easement may be deemed adequate by the Planning Board if no more than four (4) lots are**

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**to be served by the easement, or in Sustainable Growth Tier IV no more than seven (7) lots and a remainder agricultural parcel(s), subject to the following criteria:**

- (A) Such easement shall have a minimum right-of-way width of twenty-two (22) feet connecting the lots to a public road;**
- (B) All lots served by such easement shall have a minimum net lot area of two (2) acres, as provided in Section 24-129(a) of this Subtitle; and**
- (C) The use of such lots shall be restricted to one-family dwellings or agricultural uses.**
- (D) The right-of-way easement is adequate to serve the proposed uses pursuant to Section 24-124.**

While Section 24-128(b)(1)(B) requires that each lot be two acres or larger, Section 24-152(j)(2) states that:

- (2) Access authorized pursuant to Section 24-128(b)(1), (3) and (11) of the Subdivision Regulations may be deemed adequate to serve lots of any net lot area. Access easements designed in accordance with Section 24-128(b)(1) may be deemed adequate to serve a maximum of eight (8) lots. The access easement shall provide a passing area when determined appropriate.**

This section of the subdivision regulations waives the requirement for each lot to be two acres or more.

The northern access easement is serving Lots 1-7 and the southern access easement is serving Lots 8-11 and meets the requirements for the use of a private access easement. Prior to approval of the final plat, a draft private access easement agreement should be submitted and approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC). The access easement, authorized pursuant to Sections 24-152(j)(2) and 24-128(b)(1) of the Subdivision Regulations, shall set forth the rights, responsibilities, and liabilities of the lot owners. The easement shall contain two parts, one for the northern access (Lots 1-7) and one for the southern access (Lots 8-11), with joint responsibility of maintenance for both parts to be shared in common by all lot owners. The easement document shall be recorded in the land records of Prince George's County, and the liber/folio reflected on the record plat.

Each easement shows a cul-de-sac with a planting area inside the pavement area. The Type 1 tree conservation plan shows the northern cul-de-sac providing driveway entrances for Lots 6 and 7 and the southern cul-de-sac providing driveway entrances for Lots 8 and 9. These areas should be landscaped prior to building permits for either of the lots which the cul-de-sac serves. The

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applicant should provide photographic evidence at the time of building permit for either of the lots as verification of satisfaction.

22. **Outlots**—The applicant is proposing to create three outlots which will be conveyed to adjoining property owners. Based on Staff Exhibit C, prepared by the applicant, an estimated six existing off-site dwellings and potentially 31 additional off-site lots have the ability to utilize an existing vehicular access easement which crosses this property. The benefitted properties are located to the east of the subject site. This existing easement is an encumbrance on this property that is to remain, the PPS proposes to relocate a portion of the easement if the property owner and those benefitted property owners can agree. Full implementation of this PPS will necessitate those parties coming to an agreement. The Planning Board's approval of this PPS in no way interrupts or invalidates that private agreement, and should not be construed to do so. In addition, by conveying these outlots to the adjoining property owners of Parcels 32, 13, and 25, it would provide those parcels with frontage and possible direct vehicular access to a dedicated public right-of-way (ROW).

Proposed Outlot A is intended to be dedicated to the adjacent owner of Parcel 32 to provide frontage to Goodwood Court to the adjacent parcel. If an agreement cannot be made by the applicant and the owner of Parcel 32, Outlot A should be dedicated to public use as part of proposed Goodwood Court. Because this would create a non-standard right-of-way (ROW) agreement of the Department of Public Works and Transportation (DPW&T) should be required. If an agreement with the owner of Parcel 32 or DPW&T cannot be reached, the outlot should be retained as part of Historic Conservation Lot 1.

Proposed Outlot B is intended to be dedicated to the adjacent owner of Parcel 13 to provide frontage to Goodwood Court. If an agreement cannot be made by the applicant and the owner of Parcel 13, Outlot B should be dedicated to public use as part of proposed Goodwood Court. Because this would create a non-standard right-of-way (ROW) agreement of the Department of Public Works and Transportation (DPW&T) should be required. If an agreement with the owner of Parcel 13 or DPW&T cannot be reached, the outlot should be retained as part of Historic Conservation Lot 1.

Proposed Outlot C is intended to be dedicated to the adjacent owner of Parcel 25 to provide continued use of an existing private access easement for properties to the east of the subject site. If an agreement cannot be made by the applicant and the owner of Parcel 25, Outlot C should be retained as part of the proposed Historic Conservation Lot 1, and continued uninterrupted access provided by the property owner.

The Planning Board does not have the authority to extinguish the existing private vehicular access easement, with the approval of a preliminary plan.

23. **Use Conversion**—This preliminary plan was analyzed based on the proposal for residential development. The analysis includes access, noise, mandatory dedication, and views of the property, specifically relating to the single-family dwelling land use proposed with this application.

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While the subject application is not proposing any nonresidential development, if such a land use were proposed, a new preliminary plan will be required.

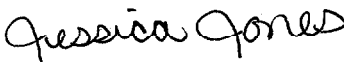
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*


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 Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey and Hewlett voting in favor of the motion, and with Commissioner Shoaff absent at its regular meeting held on Thursday, February 21, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 14<sup>th</sup> day of March 2013.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:PR:arj

  
APPROVED AS TO LEGAL SUFFICIENCY  
M-NCPPC Legal Department  
Date 3/5/13