

R E S O L U T I O N

WHEREAS, Tristate Development, LLC is the owner of a 32.13-acre parcel of land known as Parcel 60, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned Rural Residential (R-R) and Military Installation Overlay (M-I-O); and

WHEREAS, on September 25, 2020, Tristate Development, LLC filed an application for approval of a Preliminary Plan of Subdivision for 29 lots and 5 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-17014 for Lusby's Lane was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on February 4, 2021, 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 4, 2021, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP-018-2020, and APPROVED a Variance from Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-17014 for 29 lots and 5 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised to:
 - (a) In identifying the C-517 facility, remove the words "proposed for reservation".
 - (b) Indicate areas within the Military Installation Overlay Zone for noise on the PPS.
 - (c) Show the C-517 right-of-way as a separate parcel with conveyance to the homeowners association.
 - (d) Modify the Parcel Summary Table on page 1 of the plan accordingly.

2. Prior to approval of the final plat of subdivision, in accordance with Section 24-135 of the Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall provide a fee-in-lieu payment for mandatory parkland dedication, excluding lots over one acre in size.
3. Total development within the subject property shall be limited to uses that would generate no more than 22 AM and 26 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision, with a new determination of the adequacy of transportation facilities.
4. Prior to approval of a building permit for each dwelling unit, a fee calculated as \$1,472 per unit multiplied by (Engineering News Record Highway Construction Cost index at time of payment) / (Engineering News Record Highway Construction Cost Index for first quarter, 1993), as shown in accordance with Prince George's County Council Resolution CR-9-2017, shall be determined. All fees shall be paid to Prince George's County (or its designee), to be indexed by the appropriate cost indices to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement.
5. Prior to approval of a grading permit, the applicant shall submit three hard copies and three digital copies of the final Phase 1 archeology report on a CD to Historic Preservation staff.
6. Prior to approval of a final plat:
 - a. The final plat shall include the grant of a 10-foot-wide public utility easements along the public rights-of-way.
 - b. The applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association has been established for the subdivision. The draft covenants shall be submitted to the Subdivision and Zoning Section to ensure that the rights of The Maryland-National Capital Park and Planning Commission are included. The Liber/folio of the declaration of covenants shall be noted on the final plat, prior to recordation.
 - c. The final plat shall include the dedication of the rights-of-way for all internal public streets in accordance with the approved preliminary plan of subdivision.
 - d. The final plat shall note the lots within the Military Installation Overlay Zone and note that the lots have been identified as possibly having noise levels that exceed the state noise standards for residential uses (65 dBA Ldn) due to military aircraft over flights. This level of noise is above the Maryland designated acceptable noise level for residential uses.
7. Development of this subdivision shall be in compliance with an approved Type 1 Tree Conservation Plan (TCP1-018-2020). The following notes shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-018-2020), or as modified by a future 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 Conservation/Tree Preservation Policy.”

8. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. 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.”

9. Prior to approval of building permits, the applicant and the applicant’s heirs, successors, and/or assignees shall convey, to the homeowners association, land as identified on the approved preliminary plan of subdivision and detailed site plan. Land to be conveyed shall be subject to the following:
- a. A copy of the recorded deed for the property to be conveyed shall be submitted to the Subdivision and Zoning Section of the Development Review Division.
 - b. All waste matter of any kind shall be removed from the property, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - c. The conveyed land shall not suffer the disposition of construction materials or soil filling, other than the placement of fill material associated with permitted grading operation that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
 - d. Any disturbance of land to be conveyed to the association shall be in accordance with an approved site plan and tree conservation plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to the association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division.
 - f. The Prince George’s County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.

10. Any nonresidential development of the subject property shall require approval of a new preliminary plan of subdivision prior to issuance of any permits.
11. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan (55840-2017-0) and any subsequent revisions.
12. Prior to approval of building permits, certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less for lots located within the Military Installation Overlay Zone.
13. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised, as follows:
 - a. Revise the current woodland conservation worksheet with the required updated woodland conservation worksheet.
 - b. Have the revised plan signed and dated by the qualified professional preparing the plan.
 - c. Add the following note on the TCP1 which reflects this approval, directly under the woodland conservation worksheet:

“NOTE: This plan is in accordance with the following variance from the strict requirements of Subtitle 25-122(b)(1)(G), approved by the Planning Board on (Date) for the removal of the following 23 specimen trees: Trees 3, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 20, 21, 22, 23, 25, 30, 47, 51, 52, and 53.”
14. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area, except for approved impacts, 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:

“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.”
15. Impacts to regulated environmental features for the proposed master-planned road and trail shall be reevaluated during the review of the Type 2 tree conservation plan for the minimization of permanent impacts to the fullest extent possible, and consistency with any approved federal or state permits for stream and wetlands impacts.

16. Prior to issuance of any permits which impact wetlands, wetland buffers, streams, or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

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 with conditions, 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 the west side of Lusby's Lane, approximately 950 feet south of its intersection with Lusby's Turn. The property is known as Parcel 60, described by deed recorded in Liber 23173 Folio 77 and consists of 32.13 acres in the Rural Residential (R-R) Zone. Part of the site is also located within the Military Installation Overlay (M-I-O) Zone. The site is subject to the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (master plan). This preliminary plan of subdivision (PPS) includes 29 lots and 5 parcels for single-family detached development. The proposed development is subject to a PPS, in accordance with Section 24-107 of the Prince George's County Subdivision Regulations.

Section 25-122(b)(1)(g) of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) requires that the preservation of specimen trees, champion trees, or trees that are associated with an historic site or structure have their critical root zones protected through judicious site design. The applicant requested approval of a variance for the removal of 23 specimen trees, which is discussed further in this resolution.

3. **Setting**—The property is located on Tax Map 135 in Grids A2 and A3, in Planning Area 85A, and is zoned R-R. The site is bounded to the north, west, and south by properties with single-family detached dwellings, which are also in the R-R Zone. The property directly to the east of the subject site is known as Parcel 142, recorded by deed in Liber 4411 Folio 60, is owned by the Potomac Electric Power Company (PEPCO), contains electrical overhead utilities, and is zoned R-R. The southern and western portions of the subject site contain 23.56 acres of environmentally regulated area, specifically streams and wetlands.
4. **Development Data Summary**— The following information relates to the subject PPS application and the proposed development.

	EXISTING	APPROVED
Zone	R-R	R-R
Use(s)	Vacant	Residential
Acreage	32.13	32.13
Lots	0	29
Parcels	1	6
Dwelling Units	0	29
Gross Floor Area	N/A	N/A
Variance	No	Yes
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee meeting on October 16, 2020.

5. **Previous Approvals**—No prior approvals are associated with this site.
6. **Community Planning**—Conformance with the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and master plan are evaluated as follows:

Plan 2035

The application is in the Established Communities Growth Policy area designated in Plan 2035. The vision for the Established Communities area is most appropriate for context-sensitive infill and low- to medium-density development (page 20).

Master Plan Conformance

The master plan retained the subject property in the R-R Zone. Beyond development in the center core, the remaining portions of the Brandywine community are envisioned as being primarily low-density residential (page 42). The master-planned roadway Shady Oak Parkway (C-517) bisects the southern part of the subject property (page 50).

A small section of the northeast corner of the subject property, adjacent to Lusby's Lane, falls under the M-I-O Zone for noise. Areas within the M-I-O Zone are subject to Section 27-548.55(b) of the Prince George's County Zoning Ordinance, which states that interiors of all new residential construction within noise intensity contours, including additions, must be certified to 45 dBA Ldn or less by an acoustical engineer, or qualified professional of competent expertise. The M-I-O Zone area shall be shown on the PPS, and any proposed dwelling falling within this area shall be mitigated for noise. Notification of potential noise impacts shall also be indicated on the final plat for lots within the M-I-O Zone.

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application conforms to the master plan.

7. **Stormwater Management**—An approved Stormwater Management (SWM) Concept Plan and Letter (55840-2017-0), reviewed and approved by the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE), were submitted with the subject application. According to the SWM concept plan, 21 micro-bioretenention facilities and 57 drywells are proposed on site. The SWM concept approval expires on May 28, 2023. Development of the site shall conform with the SWM concept approval and any subsequent revisions, to ensure no on-site or downstream flooding occurs.
8. **Parks and Recreation**—This PPS was reviewed for conformance with the requirements and recommendations of the master plan and the Subdivision Regulations (Subtitle 24 of the Prince’s George’s County Code), as they pertain to public parks and recreational facilities.

The subject property is not adjacent to any existing Maryland-National Capital Park and Planning Commission (M-NCPPC) parkland. The closest parks in the surrounding area are the Southern Area Aquatics and Recreation Complex (approximately two miles south) and the Police Firearm Range (approximately one mile south). The Southern Area Aquatics and Recreation Complex contains the newly constructed, state of the art, multi generation center. The Police Firearm Range contains ranges for traditional targets, as well as a trap and skeet facility for launched targets.

In accordance with Section 24-134(a)(1) of the Subdivision Regulations, at the time of PPS, a residential subdivision is required to provide mandatory dedication of parkland to M-NCPPC. Based on the density proposed with this application, the mandatory dedication of parkland requirement would require the dedication of 1.46 acres of land to M-NCPPC for public parks.

In accordance with Section 24-134(a)(3)(B) of the Subdivision Regulations, proposed Lot 27 of the subject subdivision is exempt from the mandatory dedication of parkland requirement because it is proposed to be over one acre in size.

The applicant proposed a payment of a fee-in-lieu of the mandatory dedication of parkland, which is in accordance with Section 24-135 of the Subdivision Regulations. A fee-in-lieu payment is acceptable because the amount of land available for dedication is unsuitable due to its relatively small size and is not contiguous to any existing parkland. The fees collected could be used for additional improvements in the service area, for example, at the Southern Area Aquatics and Recreation Complex. The fees collected shall be applied to Park Community SH (Service Area 8).

9. **Trails**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the master plan, to provide the appropriate pedestrian and bicycle transportation facilities.

Existing Conditions, Sidewalks and Bike Infrastructure

The submitted application proposes the subdivision and creation of 29 lots and 5 parcels to be used for single-family detached dwellings. The subject site is located approximately 0.65 miles northeast of the intersection of Branch Avenue and Moores Road in Brandywine, Maryland.

The site is unimproved, and there are no pedestrian or bicycle facilities currently built on the subject property. The area under review for the subject application does not fall within a 2002 Corridor or a Plan 2035 Center and, therefore, is not subject to Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines, Part 2.”

Proposed Pedestrian and Bicycle Facilities

The submitted plans display standard, five-foot-wide sidewalks on both sides of Proposed Roads A, B, and C, as well as two crosswalks which provide pedestrian connections between Lots 25 and 18 and between Lots 17 and 11. Per staff request, the applicant submitted a sidewalk plan which displays these pedestrian amenities. They are also displayed on the PPS.

Review of Master Plan Compliance

This development case is subject to the MPOT, which recommends the following facilities:

- C-517 Planned Shared Roadway

The submitted plans indicated that C-517 is not proposed for dedication nor construction but is proposed for reservation. At this time, the Prince George’s County Department of Public Works and Transportation (DPW&T) has not provided a response for this road segment for reservation. Therefore, dedication nor reservation of C-517 is required at this time. Since no roadway has been built on the adjacent property, the applicant will not be required to build the roadway as part of this application, however, DPIE makes the determination for when and what standard roadways are built. The planned shared roadway shall be incorporated into the design of C-517 if the right-of-way is acquired and constructed in the future, or part of a future DPW&T capital improvement project.

The MPOT provides policy guidance regarding multimodal transportation, and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling:

Policy 1: Provide standard sidewalks along both of all new road construction within the Developed and Developing Tiers.

Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

The property falls in the developing tier and will require sidewalks on both sides of all new internal roads, which are displayed on the applicant’s submission. As previously mentioned, the applicant has submitted a sidewalk plan and updated the PPS to display sidewalks and crosswalks where recommended.

The Transportation Systems Section of the master plan makes the following recommendations (page 121):

Install bicycle signage and safety improvements along designated shared-use roadways when development occurs, or roadways are upgraded. Bikeway improvements may include paved shoulders, painted bike lanes, and bike signage.

The applicant did not propose to construct C-517, which would feature the MPOT planned shared roadway and related bicycle signage. Should this road be constructed as part of a future development or capital improvement project, the shared roadway should be constructed, and appropriate bikeway signage installed.

Based on the findings presented above, adequate pedestrian and bicycle transportation facilities will exist to serve the PPS, as required under Subtitle 24.

- 10. Transportation**—The subject property is located within Transportation Service Area 2, as defined in Plan 2035. As such, the subject property is evaluated according to the following standards:

Links and Signalized Intersections: Level of Service D, with signalized intersections operating at a critical lane volume of 1,450 or better.

Unsignalized Intersections: The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections:

For two-way stop-controlled intersections a three-part process is employed:

(a) Vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the critical lane volume is computed.

For all-way stop-controlled intersections a two-part process is employed:

(a) Vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the critical lane volume is computed.

Analysis of Traffic Impacts

This proposal is expected to generate fewer than 50 peak-hour trips, so no traffic impact study was required. The applicant submitted counts which are the basis for determination of adequacy.

The traffic generated by this PPS would impact the following intersections, interchanges, and links in the transportation system:

- MD 5 and Earnshaw Road/Burch Hill Road (unsignalized)

The following critical intersections, interchanges and links identified above, when analyzed with existing traffic and existing lane configurations, operate as follows:

EXISTING CONDITIONS				
Intersections	Critical Lane Volume (AM and PM)		Level of Service (LOS, AM and PM)	
MD 5 and Earnshaw Road/Burch Hill Road	337.2*	670.4*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure and should be interpreted as a severe inadequacy.				

Background Traffic

None of the critical intersections identified above are programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation “Consolidated Transportation Program” or the Prince George's County “Capital Improvement Program.” Background traffic has been developed for the study area using 13 approved, but unbuilt developments within the study area. A 2.0 percent annual growth rate for a period of two years has been assumed. A second analysis was done to evaluate the impact of background developments. The analysis revealed the following results:

BACKGROUND TRAFFIC CONDITIONS				
Intersections	Critical Lane Volume (AM and PM)		Level of Service (LOS, AM and PM)	
MD 5 and Earnshaw Road/Burch Hill Road	661.0*	+999*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure and should be interpreted as a severe inadequacy.				

The table below summarizes trip generation in each peak hour that was used in reviewing traffic and developing trip cap for the site:

Table 1 – Trip Generation									
Land Use		Use Quantity	Metric	AM Peak			PM Peak		
				In	Out	Tot	In	Out	Tot.
Single-Family Detached		29	Residences	4	18	22	17	9	26
Recommended Trip Cap						22			26

The following critical intersections, interchanges and links identified above, when analyzed with total future traffic as developed using the “Transportation Review Guidelines, Part 1” (Guidelines) including the site trip generation as described above, operate as follows:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM and PM)		Level of Service (LOS, AM and PM)	
MD 5 and Earnshaw Road/Burch Hill Road (standards for passing are shown in parentheses)				
Delay Test (50 seconds or less)	734.7*	+999*	Fail	Fail
Minor Street Volume Test (100 or fewer)	338	177	Fail	Fail
Critical Lane Volume Test (1150 or fewer)	2,311	1,845	Fail	Fail
*In analyzing two-way stop-controlled intersections, a three-step procedure is employed in which the greatest average delay in seconds for any movement within the intersection, the maximum approach volume on a minor approach, and the critical lane volume is computed and compared to the approved standards. According to the Guidelines, all three tests must fail in order to require a signal warrant study.				

Regarding the MD 5 and Earnshaw Road/Burch Hill Road intersection, the subject property is located within Planning Area 85A and is affected by the Brandywine Road Club. Specifically, Prince George’s County Council Resolution CR-9-2017 indicates the following:

- (1) Establishes the use of the Brandywine Road Club for properties within Planning Areas 85A and 85B as a means of addressing significant and persistent transportation deficiencies within these planning areas.
- (2) Establishes a list of projects for which funding from the Brandywine Road Club can be applied.
- (3) Establishes standard fees by development type associated with the Brandywine Road Club to be assessed on approved development.

This resolution works in concert with Prince George’s County Council Bill CB-22-2015, which permits participation in roadway improvements as a means of demonstrating adequacy for transportation, as required in Section 24-124 of the Subdivision Regulations. Specifically, CB-22-2015 allows the following:

- (1) Roadway improvements participated in by the applicant can be used to alleviate any inadequacy, as defined by the Guidelines. This indicates that sufficient information must be provided to demonstrate that there is an inadequacy.
- (2) To be subject to CB-22-2015, the subject property must be in an area for which a road club was established prior to November 16, 1993. In fact, the Brandywine Road Club was included in CR-60-1993 adopted on September 14, 1993, and it was developed and in use before that date.

Pursuant to CR-9-2017, the Brandywine Road Club fee for the subject application will be \$1,472 per single-family detached residence to be indexed by the appropriate cost indices to be determined by DPIE. Pursuant to CB-22-2015, once the appropriate payment is made to the satisfaction of DPIE, no further obligation will be required of the applicant regarding the fulfillment of transportation adequacy requirements of Section 24-124(a).

Plan Comments

Shady Oak Parkway (C-517) is a master plan collector facility with a minimum proposed width of 80 feet. The plans provided by the applicant show that C-517 is proposed for reservation. The roadway is proposed on the MPOT and master plan as a connection between Dyson Road and MD 5. It is intended to serve as a proposed interchange along MD 5 and eliminate the need for vehicles from neighborhoods on the east side of MD 5 to use local residential streets to reach the interchange.

After extended discussions, no legal basis could be identified to require the full 80-foot dedication of C-517 at this time. Given lack of a nexus for the Prince George's County Planning Board to require the dedication, it was determined that the plan should be referred for reservation, in accordance with Section 24-139(b) of the Subdivision Regulations. The referrals to the Maryland State Highway Administration (SHA) and DPIE were done on December 3, 2020. In accordance with Section 24-139(b), the referrals allowed 30 days for comments.

The 30-day deadline for the request for reservation of C-517 to DPIE and SHA was January 4, 2021. As of the Planning Board hearing, DPW&T has not provided any written indication for acquisition of C-517. In an email letter dated December 9, 2020 (Woodroffe to Brake; copied to Masog), SHA states that "although the proposed alignment of Shady Oak Parkway appears to intersect with the improvements of the MD 5 Transportation Corridor Study listed in the current CTP, Shady Oak Parkway is a County-proposed facility, not a State project." Given the financial constraints at the State level, the letter goes on to conclude that "there are too many uncertainties for MDOT SHA to reserve property for a project that isn't ours."

The responses provided by the public agencies fall short of the requirements of Section 24-139(b) for placement of property in reservation. Therefore, the portion of the planned C-517 facility shall not be placed in reservation within the limits of this subdivision.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, as required in accordance with Section 24-124.

11. **Schools**—This PPS was reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2001. The subject property is located within School Cluster 5, which is located outside I-95/495 (Capital Beltway). The results of the analysis are as follows:

**Impact on Affected Public School Clusters
Single-Family Attached/Detached Dwelling Units**

Affected School Clusters	Elementary School Cluster 5	Middle School Cluster 5	High School Cluster 5
Total Dwelling Units	29	29	29
Single Family Detached (SFD)	29	29	29
SFD (PYF)	0.158	0.098	0.127
SFD *PYF	4.582	2.84	3.68
Total Future Subdivision Enrollment	5	3	4
Adjusted Enrollment in 2019	6428	2797	3668
Total Future Enrollment	6433	2800	3772
State Rated Capacity	7913	3304	5050
Percent Capacity	82 percent	85 percent	73 percent

Section 10-192.01 of the County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$9,741 per dwelling if a building is located between I-95/495 and the District of Columbia; \$9,741 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; or \$16,698 per dwelling for all other buildings. This project is outside of I-95/495; thus, the surcharge fee is \$16,698. This fee is to be paid to DPIE at the time of issuance of each building permit.

12. **Public Facilities**—In accordance with Section 24-122.01 of the Subdivision Regulations, fire and rescue and water and sewerage facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated October 30, 2020 (Thompson to Heath), incorporated by reference herein. Police facilities require additional discussion as follows:

Residential Emergency Response Times

Police Facilities

This PPS was reviewed for adequacy of police services, in accordance with Section 24-122.01(c). The subject property is served by Police District V located at 6707 Groveton Road, in Clinton.

The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The test is applied on the date the application is accepted, or within the following three monthly cycles, pursuant to Section 24-122.01(e)(2). The times are based on a rolling average for the preceding 12 months. The application was accepted by the Prince George's County Planning Department on September 25, 2020.

Reporting Cycle	Date	Priority	Non-Priority
Acceptance Date	9-25-2020	12	8
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for priority calls were not met in the first monthly cycle following acceptance. Mitigation is not required, as the County's Capital Improvement Plan (CIP) includes funding for the new construction of Police District V to upgrade and relocate the existing district station. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A,B), regarding sworn police and fire and rescue personnel staffing levels. The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

13. **Public Utility Easement (PUE)**—Section 24-122(a) of the Subdivision Regulations requires that, when utility easements are required by a public company, the subdivider shall 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 standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on the public right-of-way of Lusby's Lane and proposes an internal network of public streets. The required PUEs are delineated on the PPS along the public streets.

14. **Historic**—A Phase I archeology survey was conducted on the subject property in July 2020. The subject property was once part of a large 618-acre plantation owned by Edward Eversfield during the first half of the nineteenth century. The farm was variously known as "Eversfield Farm" and "Piscataway Farm." After Edward Eversfield died in 1859, the farm was inherited by his two nephews, Charles and Benjamin Eversfield. Dr. James E. Morgan and Daniel E. Clarke acquired the 618-acre farm from various individuals between 1863 and 1864. Dr. Morgan retained ownership until his death in 1903. Georgianna Lusby acquired the 618-acre farm in the early twentieth century. Georgeanna Lusby conveyed a 139.12-acre parcel to her son, William Herbert Lusby, in 1912. The Spring family acquired the farm in 1933 and thirteen years later conveyed a 69-acre tract to the Mudd family. Diversified Investment Company acquired a 48.687-acre tract from the Mudds in 1950 and then sold the property to Richard Dobson in 1971. Dobson conveyed a 37.548-acre tract to Ahmed and Nizer Diab in 1986. A portion of the property was conveyed to PEPCO for a power line.

A pedestrian survey was conducted across the property to identify any visible cultural remains. Two grids were laid out across the property, containing 205 shovel test pit (STP) locations. A total of 157 STPs were excavated across the property, 144 of which were excavated on the larger northern ridge.

The resulting material recovery was determined to be limited in terms of quantity and temporal affiliation. Ground disturbance was noted in several areas of the survey area and included numerous areas where modern trash was discarded. There was major soil disturbance in the eastern upland portion of the property. Due to excessive slopes in the study area, the upper landforms were heavily eroded, exposing a pebbly gravel on the surface. The stratigraphy was represented by an old plow Zone layer overlying culturally sterile subsoil.

The proposal will not affect any Prince George's County historic sites or resources. The only artifacts recovered during the archeological testing of the subject property were pieces of bottle glass from modern dumping. No prehistoric or historic features were identified. The results of the survey indicate that the subject property was never intensively occupied during either the prehistoric or historic periods and was primarily used as farmland during the historic period. No additional archeological investigations are required.

15. **Environmental**—The following applications and associated plans have been reviewed for the subject site:

Background

Review Case Number	Associated Tree Conservation Plan Number	Authority	Status	Action Date	Resolution Number
NRI-181-2017	N/A	Staff	Approved	4/16/2019	N/A
4-17014	TCP1-018-2020	Planning Board	Approved	2/8/2021	2021-18

Proposed Activity

The applicant is requesting approval of a PPS (4-17014) and Type 1 tree conservation plan (TCP1-018-2020) for the construction of 29 lots and 5 parcels for single-family detached dwellings. The TCP1 shows the proposed lotting pattern and associated infrastructure (road layout, water and sewer lines, SWM facilities, woodland conservation areas, specimen trees, and proposed clearing). As part of this process, a right-of-way for a master-planned collector roadway (C-517 / Shady Oak Parkway) and associated master-planned trail (C-613) was proposed for reservation.

Grandfathering

This project is subject to the current regulations of Subtitles 24, 25, and 27 that came into effect on September 1, 2010 and February 1, 2012 because the application is for a new PPS.

Site Description

The 37.54-acres site is zoned R-R and located on the south side of Lusby Road and to the east of the Earnshaw Estates Subdivision, in Brandywine. The site is almost entirely wooded with no existing structures. A review of the available information indicates the site contains an unnamed stream which drains toward the Piscataway Creek, wetlands and associated stream/wetland buffers, floodplain, and slopes. The property is in a Maryland Stronghold watershed and in a Tier II catchment area. Forest interior dwelling species (FIDS) habitat and a FIDS buffer are mapped on-site.

The Sensitive Species Project Review Area map received from the Maryland Department of Natural Resources, Wildlife and Natural Heritage Program (DNR NHP), shows rare, threatened, or endangered (RTE) species possibly on or near this property.

Master Plan Conformance

The site is located within Environmental Strategy Area (ESA) 2 of the Regulated Environmental Protection Areas Map, as designated by Plan 2035. It is also in the Established Communities Area of the Growth Policy Map and the Residential Low land use category of the Generalized Future Land Use Map (Plan 2035).

In the master plan, the section on environment contains eight sections (A–H), each of which contain policies and strategies.

(A) Green Infrastructure

- **Implement the master plan’s desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.**
- **Ensure that new development incorporates open space, environmentally sensitive design, and mitigation activities.**
- **Protect, preserve, and enhance the identified green infrastructure network.**

The project site contains regulated environmental features, woodlands, and stream connections to RTE species habitat. The entire site is shown within the regulated and evaluation areas of the *Countywide Green Infrastructure Plan* (Green Infrastructure Plan) of the *Approved Prince George’s Resource Conservation Plan* (May 2017). Conformance with the Green Infrastructure Plan is discussed further in this finding.

On-site bioretention and infiltration is proposed, consistent with environmental site design (ESD) requirements. Open Space requirements will be addressed by the Urban Design Section. Impacts to the regulated environmental features of the site have been limited to those required and/or necessary for development, such as a sanitary sewer connection, and master-planned road crossings.

(B) Water Quality, Stormwater Management, and Groundwater

- **Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.**
- **Protect and restore groundwater recharge areas such as wetlands and the headwater areas of streams.**

This proposal is for the development of a wooded parcel into a single-family detached residential subdivision. The SWM design is required to be reviewed and approved by DPIE to address surface water runoff issues in accordance with Subtitle 32, Water Quality Resources and Grading Code. Preservation of water quality will be achieved through an approved SWM concept plan utilizing ESD to the maximum extent practicable.

A SWM Concept Letter (55840-2017-00), approved on May 28, 2020, was submitted with the subject application, and requires the use of 21 micro-bioretenment facilities and 57 dry wells, but requires no fee-in-lieu. The concept approval expires on May 28, 2023.

The application proposes one sewer line connection and one road crossing that will impact the 100-year floodplain, streams with associated buffers, and wetlands with associated buffers.

(C) Watersheds

- **Ensure that, to the fullest extent possible, land use policies support the protection of the Mattawoman Creek and Piscataway Creek watersheds.**
- **Conserve as much land as possible, in the Rural Tier portion of the watershed, as natural resource land (forest, mineral, and agriculture).**
- **Minimize impervious surfaces in the Developing Tier portion of the watershed through use of conservation subdivisions and environmentally sensitive design and, especially in the higher density Brandywine Community Center, incorporate best stormwater design practices to increase infiltration and reduce run-off volumes.**

The site is located within the Piscataway Creek watershed. The subject property is located within ESA-2, which was formerly the Developing Tier, and not located in the Rural Tier (ESA-3). The proposed development will be outside the environmentally sensitive areas except for requested impacts for a master-planned road crossing and necessary sanitary sewer connection. All other regulated environmental features will be preserved.

The use of an environmentally sensitive design is proposed with the SWM concept plan.

(D) Chesapeake Bay Critical Area

- **Enhance the County's Critical Area protection program in response to local regional, and statewide initiatives and legislative changes.**

The subject property is not located in the Chesapeake Bay Critical Area.

Conformance with the Green Infrastructure Plan

According to the Green Infrastructure Plan, the site contains both regulated and evaluation areas within the designated network of the plan. The conceptual design, as reflected on the PPS and TCP1, are in keeping with the goals of the Green Infrastructure Plan and focuses development outside of the regulated areas of the site.

Environmental Review

Natural Resource Inventory Plan/ Existing Features

The application has a Natural Resources Inventory Plan (NRI-181-2017), approved on April 16, 2019. Overall, the site contains woodlands, specimen trees, streams and associated buffers, wetlands and associated buffers, and floodplain within the delineated primary management area (PMA).

The TCP1 and the PPS show all the required information correctly in conformance with the approved NRI and no revisions are required.

Rare, Threatened, and Endangered Species

A letter from DNR NHP, dated May 12, 2017, states that there is a record of the state-listed threatened American Brook lamprey (Lethenteron appendix) in the nearby area of downstream Piscataway Creek. The letter stated that the applicant must adhere to stringent best management practices of sediment control during any development of the project site. Erosion and Sediment Control plans will be reviewed and approved by the Prince George's County Soil Conservation District (SCD) in accordance with the current regulations. Additional erosion and sediment control measures and/or timing restrictions may be required by SCD address the protection of this aquatic species.

Woodland Conservation

This property is subject to the provisions of the WCO because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. A Type 1 tree conservation plan (TCP1-0018-2020) was submitted with this application.

The woodland conservation threshold for this 37.54 gross tract acre property is 20 percent of the net tract area, or 6.45 acres. The site contains 31.48 acres of net tract woodland and 5.09 acres of woodlands within the 100-year floodplain. The Woodland Conservation Worksheet shows the proposed clearing of 21.61 acres in the net tract area, 0.14 acre in the floodplain, and zero acre off-site, resulting in a woodland conservation requirement of 11.99 acres. The TCP1 worksheet

indicates that the requirement is proposed to be met with 8.38 acres of on-site woodland preservation, 0.37 acre of on-site reforestation (outside of the PMA), and 3.24 acres of off-site woodland conservation.

The location of the proposed on-site master-planned road (C-517/Shady Oak Parkway) and master-planned trail are shown on the TCP1 with no associated grading or improvements. A symbol of “Retained – not credited” has been shown within the entire right-of-way.

Section 25-122(b)(1)(N)(v) of the WCO requires that “land dedicated or to be dedicated shall not be counted toward meeting the requirements” and that “land areas dedicated or to be dedicated for future road construction shall be counted as cleared if the associated development is required to construct the road.” The road is not required to be dedicated or constructed with this application.

All design elements for this project must be accurately reflected on the TCP1, in accordance with the Environmental Technical Manual and accounted for in the worksheet.

Specimen Trees

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 shows that the site and surrounding area contain 124 specimen trees, with 96 of those specimen trees located on-site. The applicant is requesting a variance for the removal of 23 specimen trees.

Review of Subtitle 25 Variance Request

Section 25-122 of the WCO requires that “woodland conservation shall be designed as stated in this Division unless a variance is approved by the approving authority for the associated case.”

Section 25-119(d)(1) of the WCO contains six required findings be made before a variance can be granted.

A Subtitle 25 Variance application, a statement of justification (SOJ) in support of a variance, and a tree removal plan were received for the subject property on September 14, 2020.

The SOJ submitted seeks to address the required findings for 23 specimen trees and provides specific details for individual trees, which have also been provided in the following chart. The trees were identified with condition ratings of good, fair, and poor.

SPECIMEN TREE SCHEDULE SUMMARY (ONLY trees to be removed)

ST	COMMON NAME	Diameter (in inches)	CONDITION	DISPOSITION
3	American Sycamore	34	Fair	To be removed
8	Tulip Poplar	30	Good	To be removed
9	Tulip Poplar	34	Good	To be removed
10	Tulip Poplar	44	Poor	To be removed
11	Tulip Poplar	37	Fair	To be removed
12	Tulip Poplar	39	Good	To be removed
13	Tulip Poplar	30	Good	To be removed
14	Tulip Poplar	34	Good	To be removed
15	Tulip Poplar	34	Fair	To be removed
16	Tulip Poplar	30	Good	To be removed
17	Tulip Poplar	47	Fair	To be removed
18	Tulip Poplar	30	Fair	To be removed
19	Tulip Poplar	37	Fair	To be removed
20	Tulip Poplar	30	Good	To be removed
21	Tulip Poplar	31	Good	To be removed
22	Red Maple	33	Fair	To be removed
23	Tulip Poplar	32	Good	To be removed
25	Tulip Poplar	47	Good	To be removed
30	Tulip Poplar	32	Good	To be removed
47	American Sycamore	30	Fair	To be removed
51	American Sycamore	31	Poor	To be removed
52	American Sycamore	31	Poor	To be removed
53	American Sycamore	47	Poor	To be removed

Statement of Justification Request

A variance from Section 25-122(b)(1)(G) is requested for clearing of 23 specimen trees on the subject property. The site consists of 36.57 acres, is zoned R-R, and is proposed for single-family detached residential development.

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

The subject property has a large PMA area including two streams, wetlands and associated buffers, floodplain, and adjacent slopes. The PMA and a future master-planned roadway restrict the area available to develop and make it difficult to grade. The 23 specimen trees are located in areas proposed for SWM, residential structures, or the master-planned roadway. Retaining these specimen trees would limit the options available to achieve the desired development potential for residential uses and retain on-site woodlands and specimen trees.

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

A large portion of the property has environmental constraints, and the parcel is entirely wooded. The proposed development envelop avoids impacts to regulated environmental features with the exception of impacts for a master-planned road crossing and sanitary sewer connection. The remaining regulated environmental features will be preserved. Based on the locations of the 23 trees, retaining the trees and avoiding disturbance to the Critical Root Zones (CRZ's) would have a considerable impact on the development potential of the property. The development proposed is in keeping with similar projects within the area.

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

Based on the existing site constraints (PMA and 100-year floodplain) and the location of the master-planned roadway, the granting of this variance will allow the project to be developed in a functional and efficient manner.

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

This request is not based on conditions or circumstances which are solely the result of actions by the applicant. The removal of the 23 specimen trees, is primarily due to the location of the trees relative to the required SWM facility and developable residential land area. Protective measures have been employed to retain seventy-three (73) specimen trees. The request is not the result of actions by the applicant.

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

This request is not based on conditions related to land or a building use on a neighboring property.

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

The removal of 23 specimen trees will not adversely affect water quality. The proposed development is subject to the requirements of the Prince George's County Soil Conservation District (PGSCD) related to sediment and erosion control, and approval of SWM employing ESD by DPIE.

The required findings of Section 25-119(d) of the WCO have been adequately addressed by the applicant for removal of 23 Specimen Trees (3, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 30, 47, 51, 52, and 53).

Preservation of Regulated Environmental Features/Primary Management Area

This site contains regulated environmental features that are required to be preserved and/or restored to the fullest extent possible under Section 24-130(b)(5) of the Subdivision Regulations. These include 100-year floodplain, steep and sever slopes, wetlands, streams, and their associated buffers which comprise the PMA. Ephemeral streams are also located on-site but are not considered regulated environmental features.

Impacts to the regulated environmental features shall be avoided or minimized to the fullest extent possible to those that are necessary for the development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use, orderly and efficient development of the subject property, or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for SWM facilities.

Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. SWM outfalls may also be considered necessary if the site has been designed to place the outfall at a point of least impact. The types of impacts that should be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code.

Two impacts to the PMA are proposed for the development of this property: one for a master-planned road crossing with an associated master-planned trail crossing, and one for a necessary infrastructure connection to the sanitary sewer. An SOJ was submitted with the application on May 6, 2020 and impact plates with more detailed descriptions were received on October 29, 2020.

Statement of Justification for PMA Impacts

The SOJ includes a request for two separate PMA impacts totaling 1.75 acres of impacts proposed to the floodplain, slopes, wetlands, stream, and wetland and stream buffers.

Analysis of Impacts

Based on the SOJ, the applicant is requesting a total of two impacts listed as described below:

Impact 1: Sanitary Sewer Connection Impact (Permanent Impacts: 0.14 acre)

PMA impacts totaling 5,968 square feet of floodplain and wetlands and 1,436 square feet of wetland buffer impact are proposed for a sewer connection.

Impact 2: Master Planned Road and Trail Impact (Permanent Impacts: 1.61 acres)

Permanent PMA impacts totaling 62,468 square feet of floodplain, 229 linear feet of stream, 43,722 square feet of wetlands, and 7866 square feet of wetlands buffer are proposed. No stream buffer impacts were calculated with the SOJ.

The impact plates and the TCP1 did not show enough detailed information of the impact area to recommend approval of Impact 2 for the master-planned road and trail impacts. The approved DPIE SWM concept plan does not show detailed road crossing designs and the approval letter speaks to the stream relocation being reviewed during technical review.

The site contains significant regulated environmental features, which are required to be protected under Section 24-129 and/or Section 24-130 of the Subdivision Regulations. Based on the level of design information currently available, the limits of disturbance shown on the TCP1 and the impact exhibits provided, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible.

Impact 1 for the on-site sewer connection is necessary and reasonable for the orderly and efficient development of the subject property. The regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of disturbance shown on the TCP1 for a sanitary sewer connection resulting in a necessary permanent impact of 0.14 acre.

Impact 2, for the master-planned roadway and master-planned trail, can be found necessary for development of the site, but there is insufficient detail to determine whether the impacts have been minimized to the fullest extent possible. Permanent PMA impacts totaling 62,468 square feet of floodplain, 229 linear feet of stream, 43,722 square feet of wetlands, and 7,866 square feet of wetlands buffer are proposed (1.61 acres). The regulated environmental features impacts for the proposed master-planned road and trail, if required, will be reevaluated during the review of the TCP2 for the minimization of permanent impacts to the fullest extent possible, and consistency with any approved federal or state permits for stream and wetlands impacts.

16. Urban Design—Conformance with the Zoning Ordinance (Subtitle 27) is evaluated as follows:

Conformance with the Zoning Requirements

The project meets the purposes of the zone as stated in Section 27-428 of the Zoning Ordinance through the creation of a variety of lot sizes and shapes to blend with the natural terrain and preservation of trees on the south side of the site. The proposed one-family detached dwellings are permitted in the R-R Zone. Conformance with applicable regulations will be evaluated at time of permit review, including but not limited to, the following:

- Section 27-428 R-R Zone
- Section 27-442 Regulations
- Part 11 Off-street Parking and Loading and
- Part 12 Signs

Conformance with the 2010 Prince George's County Landscape Manual

The development is subject to the Landscape Manual. Specifically, the site is subject to Sections 4.1, 4.6, 4.7, and 4.9, which will be reviewed at the time of a future application.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area or disturbance and require a grading permit. Properties zoned R-R are required to provide a minimum of 15 percent of the gross tract area covered by tree canopy. The subject site has 37.54 acres of gross tract area, and the required tree canopy coverage (TCC) is 5.63 acres. Compliance with the TCC requirement will be evaluated with a future application.

Other Urban Design Issues

The applicant is encouraged to incorporate Crime Prevention Through Environmental Design strategies in the site and building design. For example, crime can be averted through positive physical designs allowing for natural surveillance of public spaces.

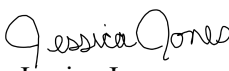
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

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 Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, February 4, 2021, in Upper Marlboro, Maryland.

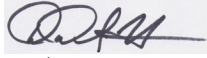
Adopted by the Prince George's County Planning Board this 4th day of March 2021.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

PGCPB No. 2021-18
File No. 4-17014
Page 25

APPROVED AS TO LEGAL SUFFICIENCY

A handwritten signature in black ink, appearing to read "D. Warner", is written over a light gray rectangular background.

David S. Warner
M-NCPPC Legal Department
Date: February 16, 2021