



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2022-54

File No. 4-21028

R E S O L U T I O N

WHEREAS, Becker Building Company, LLC is the owner of a 6.35-acre parcel of land known as Parcel 25, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned Rural Residential (RR) and Military Installation Overlay (M-I-O); and

WHEREAS, on December 16, 2021, Becker Building Company, LLC filed an application for approval of a Preliminary Plan of Subdivision for 6 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21028 for Richardson 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 May 5, 2022; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1703(a) of the Subdivision Regulations, subdivision applications submitted and accepted as complete before April 1, 2022, but still pending final action as of that date, must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the submission and acceptance of the application; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, on May 5, 2022, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-019-2021, and APPROVED a Variance to Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-21028 for 6 lots and 1 parcel with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
 - a. List the approval date for the stormwater management concept plan in General Note 21.
 - b. Provide the Type 1 tree conservation plan number in General Note 26.

- c. Provide the correct net developable area outside the primary management area in General Note 7.
 - d. Show and label the primary management area line, as depicted on the approved natural resources inventory.
2. Total development within the subject property shall be limited to uses which generate no more than 5 AM peak-hour trips and 5 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.
3. Any nonresidential development shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.
4. Development of this site shall be in conformance with Stormwater Management Concept Plan 31347-2020-0 and any subsequent revisions.
5. Prior to approval of a final plat, in accordance with the approved preliminary plan of subdivision (PPS), the final plat shall include:
 - a. The dedication of public utility easements along both sides of the public rights-of-way.
 - b. The dedication of the new public streets, as approved on the PPS.
 - c. Notations, in accordance with prior Section 24-152(m) of the Prince George's County Subdivision Regulations. A draft conservation subdivision easement shall be reviewed and approved by the Development Review Division, as designee of the Prince George's County Planning Board, and shall demonstrate conformance to prior Section 24-152(n) and (o).
6. Prior to approval of a final plat of subdivision, in accordance with prior 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. The fee-in-lieu payment shall be applied to the Park Service Area 3.
7. In conformance with the 2009 *Approved Countywide Master Plan of Transportation*, and the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment*, the applicant and the applicant's heirs, successors, and/or assignees shall provide minimum 5-foot-wide continuous and accessible sidewalks on both sides of all public streets, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement, with written correspondence.
8. Prior to signature approval of the Type 1 tree conservation plan (TCP1), the approval block shall be revised on the plan to indicate the TCP1 number (TCP1-019-2021) and use the most recent approval block, as shown in the 2018 Environmental Technical Manual, on Appendix A-64.

9. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-019-2021). 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 (TCP1-019-2021 or most recent revision), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). 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.”

10. 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.”

11. At 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 any 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.”

12. Full cut-off optic light fixtures shall be used in order to minimize light intrusion from development of this site into the conservation area.

13. Prior to approval of a final plat, the applicant and the applicant’s heir, 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 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.

14. 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. 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 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 is 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.
15. Prior to approval of a grading permit, the applicant and the applicant's heirs, successors, and/or assignees shall obtain a raze permit to remove all structures on-site.
 16. The revised natural resources inventory showing the added Specimen Tree 16 shall be approved, prior to signature approval of the Type 1 tree conservation plan.
 17. All specimen trees, which have been identified within 100 feet off-site shall be listed in the specimen tree table on the natural resources inventory and the Type 1 tree conservation plan.
 18. Prior to signature approval of the Type 1 tree conservation plan, the limits of disturbance and super silt fence shall be revised to correspond with the proposed grading between the proposed road (Rammer Drive) and the eastern property boundary line.

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 prior 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 site is located approximately 1,000 feet southeast from the intersection of Old Alexandria Ferry Road with Woodyard Road, at the terminus of Rammer Drive. The property consists of one acreage parcel known as Parcel 25, recorded in the Prince George's County Land Records in Liber 44438 folio 593, and is addressed as 8311 Richardson Road. The 6.35-acre property is located in the Rural Residential (RR) and Military Installation Overlay (M-I-O) Zones and is subject to the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan), Subtitles 24 and 27 of the Prince George's County Code, and other applicable plans, as outlined herein. However, this application is reviewed pursuant to the prior Rural Residential (R-R) zoning of the subject property and pursuant to the prior Prince George's County Zoning Ordinance and Subdivision Regulations as required, in accordance with Section 24-1703(a). The subject property is currently improved with a trailer and a ruinous log cabin, which will be razed to make way for new development.

This application is for a conservation subdivision, pursuant to Section 24-152 of the prior Prince George's County Subdivision Regulations. The applicant proposes to subdivide the property into one conservation parcel and six single-family detached lots, with a minimum size of 10,000 square feet for each lot. The conservation parcel shall be conveyed to a homeowners association (HOA) and maintained as open space. In accordance with Section 24-152(o), a conservation subdivision easement, to the benefit of a not-for-profit land conservation organization or a local governmental agency, shall be recorded over a part of the conservation parcel. There are no previous preliminary plans of subdivision (PPS) applying to the site; therefore, a PPS is required to permit the division of land for the development proposed, in accordance with Section 24-107 of the prior Subdivision Regulations.

The site includes environmental features which were recommended for conservation, as described in the technical staff report of the Sketch Plan S-20001 completed for the project. In the central part of the site, the environmental features include a primary management area (PMA) containing a perennial stream with associated wetlands and specimen trees. In the southern portion of the site, the environmental features include undisturbed woodland with numerous specimen trees outside the PMA and on partially steep slopes. The PPS shows all of the previously identified features on the site for conservation, except for three specimen trees located in the northern part of the site, which are proposed to be removed. Analysis of the site's environmental features, and analysis of the requirements of a conservation subdivision, are given in the Environmental and Conservation Subdivision Criteria for Approval findings of this resolution.

The applicant also filed a variance request to Section 25-122(b)(1)(G) of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO), in order to allow removal of three specimen trees. This request is discussed further in the Environmental finding of this resolution.

This PPS was heard by the Planning Board on March 3, 2022, and the Planning Board voted to continue the hearing to May 5, 2022, in order to allow additional information to be provided by the applicant regarding an off-site specimen tree including its size, health, and impact of proposed development on the specimen tree. The Planning Board also requested further justification from

the applicant for their variance request to allow removal of three specimen trees. Revised plans and justification were received from the applicant subsequent to the hearing on March 3, 2022. A discussion of revised materials and modifications is covered in the Environmental finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 117 in Grids B-1 and B-2 and is within Planning Area 81A. It is bound on all sides by properties in the R-R and M-I-O Zones. The properties to the south and east are vacant and wooded, and those to the north and west sides of the subject property contain single-family detached dwellings, in accordance with conventional R-R zoning standards.
4. **Development Data Summary**—The following information relates to the subject PPS and the approved development.

	EXISTING	APPROVED
Zones	RR/M-I-O	RR/M-I-O (reviewed per R-R/M-I-O standards)
Use(s)	Residential	Residential Conservation Subdivision
Acreage	6.35	6.35
Parcels	1	1
Lots	0	6
Dwelling Units	0	6
Variance	No	Yes Section 25-122(b)(1)(G)
Variation	No	No

Pursuant to Section 24-119(d)(2) of the prior Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on January 7, 2022.

5. **Previous Approvals**—S-20001 was certified as complete by the Planning Director on July 14, 2021, which was required as a prerequisite to the acceptance of this PPS application, in accordance with Section 24-152(f).
6. **Existing Site Conditions**—The subject property is currently improved with a trailer and a ruinous log cabin. The Phase I archeological investigation performed on the property (final report dated November 20, 2021, and incorporated by reference herein) provides additional information regarding the structures located on the subject property. The PPS, however, only depicts the location of the trailer. It is not clear whether the trailer was served with private well and septic field, and whether these have been properly abandoned. Raze permits are required, prior to demolition of any structure on the site, and any wells and septic systems located on the property must be pumped, backfilled, and/or sealed, in accordance with COMAR 26.04.04 and per all Prince George's County Health Department regulations. In addition, any hazardous materials located in any structures on-site must be removed and properly stored or discarded before the

structures are razed. A suitable condition for proper demolition of any structures on the subject property has been included.

7. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the Subregion 5 Master Plan are evaluated, as follows:

General Plan

This application is located within the Established Communities growth policy area designated in Plan 2035. Established Communities are most appropriate for context-sensitive infill and low- to medium-density development. This conservation subdivision proposes six single-family residential lots for a density of 1.06 dwelling units per net acre, in a neighborhood which is developed with single-family detached dwellings, in accordance with conventional R-R zoning standards.

Master Plan

The master plan recommends residential-low land uses on the subject property. The sectional map amendment of the Subregion 5 Master Plan retained the subject property in the R-R Zone. The 2018 Countywide Map Amendment placed the subject property in the RR Zone.

The PPS conforms to the land use recommendations of the master plan, pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations.

8. **Stormwater Management**—An approved Stormwater Management (SWM) Concept Plan and letter (31347-2020-00) were submitted, which show the use of environmental site design practices such as grass swales, dry wells, permeable pavement, and disconnections of rooftop runoff. None of the proposed stormwater facilities impact the PMA. No further information is required at this time regarding SWM.

In accordance with Section 24-130 of the prior Subdivision Regulations, development of the site shall conform with the SWM concept plan and any subsequent revisions, to ensure no on-site or downstream flooding occurs.

9. **Parks and Recreation**—This PPS was reviewed for conformance with the requirements and recommendations of Plan 2035, the Subregion 5 Master Plan, the *Land Preservation, Parks and Recreation Plan for Prince George's County*, the *Formula 2040 Functional Master Plan for Parks, Recreation and Open Space*, and the prior Subdivision Regulations, as they pertain to public parks and recreational facilities.

This property is located approximately 0.5 mile southeast of Tanglewood Park, 1.8 miles northeast of Fox Run Park, and 4.5 miles northeast of Cosca Regional Park. In addition, the Stephen Decatur Community Center is located approximately 3 miles to the west. According to the Subregion 5 Master Plan, Clinton contains approximately 389 acres of local parkland and will have a projected need of 730 acres by 2030. However, there are no properties proposed for parkland acquisition in the vicinity of this development.

Mandatory dedication of parkland is required, pursuant to Section 24-134(a) of the prior Subdivision Regulations. Section 24-135 provides for on-site recreational facilities or the payment of a fee-in-lieu as an alternative to land dedication. Based on the density of development, 5 percent of the net residential lot area, or approximately 0.32 acre, could be required to be dedicated to the Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks. The general notes on the PPS indicate that the applicant has opted to provide a fee-in-lieu. This proposal was reviewed and approved, based on the limited opportunities on-site for recreational facilities. The fee may then be applied toward acquisition of land or improvements to nearby Tanglewood Park or other existing parks in Park Service Area 9.

Future residents would be best served by the provision of a fee-in-lieu to help improve existing off-site recreational facilities, and that the fee-in-lieu proposed will meet the requirements of mandatory parkland dedication, as required by Section 24-135(a).

Proposed Conservation Subdivision Easements

Section 24-152 provides the requirements of a conservation subdivision, the purpose of which 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.”

Section 24-152(n) provides that conservation areas shall be owned and controlled by an individual, an HOA, a public or private organization, land trust, or corporation. A conservation subdivision easement shall then be recorded in the land records to ensure responsibility for the maintenance and continued protection of the conservation areas. Specific requirements for the easement agreement are then stipulated in Section 24-152(o), including that there shall be an additional party to the easement, and that the additional party may be a local government agency, but only upon demonstration by the applicant that all reasonable efforts have been exhausted to obtain an agreement with a not-for-profit, tax exempt land conservation organization that meets all specified criteria in Section 24-152(o)(9).

Specialized natural resources staff within the Prince George’s County Department of Parks and Recreation are responsible for periodic inspections and monitoring of conservation subdivision easements, and the staff available to perform these functions is very limited. The conservation subdivision easement proposed with this PPS is small, and not contiguous to other M-NCPPC easements or parkland tracts. The dedication of this easement to M-NCPPC would not be supported by the M-NCPPC work program.

The applicant provided a draft deed of conservation easement with the application submittal, which would grant the conservation subdivision easement to M-NCPPC; however, no material submitted by the applicant includes discussion of conformance with the requirements of Section 24-152 mentioned above, nor any demonstration that the applicant had sought a

third-party steward for the property and exhausted all options. The applicant was informed of these deficiencies at the time of the SDRC meeting on January 7, 2022. Plan revisions were received on January 27, 2022 and included a revised draft deed of conservation easement regarding the disposition of the easement. This revised document now identifies a national land trust organization as the additional party to the proposed conservation easement.

10. **Transportation (bicycle, pedestrian, and vehicular)**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the Subregion 5 Master Plan, and the Subdivision Regulations to provide the appropriate transportation facilities. Transportation-related findings for adequacy are made for this PPS, in accordance with the Subdivision Regulations, along with any needed determinations related to dedication, access, and general subdivision layout.

Review of Master Plan of Transportation Compliance

The site is not within or adjacent to any master plan facilities identified in the MPOT. The access is from Rammer Drive, which is to be extended into the site and terminate in a cul-de-sac. No additional right-of-way dedication is required.

In regard to pedestrian and bicycle facilities, 5-foot-wide sidewalks are included on both sides along the extension of Rammer Drive, which conforms to the MPOT Policy 1 on page 9. The extension of Rammer Drive will be used as a shared roadway, which conforms to the MPOT Policy 2 on page 10.

In addition, the pedestrian and bicycle facilities also conform to the Subregion 5 Master Plan strategies by developing street and sidewalk/trail connections between adjacent subdivisions as new development occurs (pages 120–121).

Analysis of Traffic Impacts

The application is a PPS that includes residential use. The table below summarizes trip generation in weekday peak hours. The development's impact on traffic is de minimis, since it generates no more than five new peak-hour trips, based on the "Transportation Review Guidelines, Part 1" (Guidelines).

Trip Generation Summary: 4-21028: Richardson Subdivision								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Single-Family Detached	6	Units	1	4	5	3	2	5
Trip Cap			1	4	5	3	2	5

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, as required in accordance with Section 24-124 of the Subdivision Regulations, with the right-of-way dedication provided and with a trip cap (5 AM and 5 PM peak-hour vehicle trips) imposed, consistent with the trip generation for the site.

11. **Schools**—This PPS was reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations, as well as Prince George’s County Council Resolutions CR-23-2001 and CR-38-2002, *Amended Adequate Public Facilities Regulations for Schools*. Per Section 24-122.02(a)(2), the subdivision is considered adequate when the future student enrollment does not exceed 105 percent of the state-rated capacity. The subject property is located within Cluster 6, as identified in the *Pupil Yield Factors & Public-School Clusters* 2020 Update. An analysis was conducted and the results are, as follows:

Impact on Affected Public School Clusters by Dwelling Units

	Affected School Cluster		
	Elementary School Cluster 6	Middle School Cluster 6	High School Cluster 6
Single-Family Detached (SF) Dwelling Units	6	6	6
Pupil Yield Factor (PYF) – SF	0.158	0.098	0.127
SF x PYF = Future Subdivision Enrollment	1	1	1
Adjusted Student Enrollment 9/30/19	4,856	2,912	3,490
Total Future Student Enrollment	4,857	2,913	3,491
State Rated Capacity	6,381	3,340	5,206
Percent Capacity	76	87	67

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 \$10,180 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia; \$10,180 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 \$17,451 per dwelling for all other buildings. This project is outside of the Capital Beltway; thus, the surcharge fee is \$17,451. This fee is to be paid to Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE) at the time of issuance of each building permit.

12. **Public Facilities**—In accordance with Section 24-122.01, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated February 14, 2021 (Perry to Gupta), incorporated by reference herein.
13. **Use Conversion**—The total development included in this PPS is six single-family detached dwellings in the R-R Zone. If a substantial revision to the mix of uses on the subject property is proposed, including any nonresidential development, that affects Subtitle 24 adequacy findings, that revision of the mix of uses would require approval of a new PPS, prior to approval of any building permits.

14. **Public Utility Easement**—In accordance with Section 24-122(a), 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 a public utility easement (PUE) is 10 feet wide along both sides of all public rights-of-way. The PPS extends Rammer Drive into the subject site and terminate in a cul-de-sac. The PPS shows the required PUE along both sides of this road.

15. **Historic**—A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is high. A Phase I archeology survey was completed on 2.3 acres of the property, and a report submitted. One multicomponent historic-modern site, 18PR1210, was identified.

The subject property was part of a large land grant known as “His Lordship’s Kindness.” Addison Littleford, a farmer, acquired 122-acres of the tract from the Calvert family in 1860. He and his family occupied this tract of land until 1878. According to the 1860 Census, Addison Littleford did not hold any enslaved people on his property. In 1877, 82 acres were conveyed to William W. Fowler, who subsequently subdivided the land into five smaller lots. Susannah Hutchinson acquired 17 acres of this tract in 1893. Virginia Easton purchased a 5.75-acre parcel in 1991. In 2020, the applicant, Becker Building Company, LLC, acquired the land to develop a residential subdivision. Historical records do not indicate that the Littleford and Hutchinson families held enslaved people.

The archeological investigation consisted of documentary research and fieldwork. A pedestrian survey and shovel testing were conducted across the property. A trailer with propane tanks, a ruinous log cabin, a well, and several domestic dumps were identified in the pedestrian survey. The log cabin was the only feature identified to be more than 50 years old.

Shovel testing resulted in the recovery of a prehistoric flake and 24 artifacts dating to the twentieth century. Historic Site 18PR1210 was identified in the study area. Artifacts were confined to old plow zone soils and twentieth-century yard soils. Historic and modern artifacts were recovered from the upper, disturbed soil horizon. No buried historic artifact deposits or cultural features were identified. The artifact scatter was low in density, widely distributed, and limited in content. No buried historic artifacts or features were noted. Site 18PR1210 was classified as a domestic occupation post-dating 1914 and was likely occupied by tenant farmers.

Due to the limited research value of the data recovered, Site 18PR1210 was not found to be a significant archeological resource and therefore, not eligible for listing in the National Register of Historic Places or for designation as a Prince George’s County historic site. Therefore, no further archeological investigations were recommended. Based upon the Phase I report’s findings and

recommendations, no additional archeological investigations are necessary on the subject property.

The subject property does not contain and is not adjacent to any Prince George's County historic sites or resources. This PPS will not impact any historic sites, historic resources, or significant archeological sites.

16. **Environmental**—The subject PPS and Type 1 Tree Conservation Plan (TCP1) were accepted on December 16, 2021. Comments were provided to the applicant in an SDRC meeting on January 7, 2022. Revised information was received on January 27, 2022.

On March 3, 2022, this case was heard by the Planning Board, which determined that additional information regarding an off-site specimen tree with an on-site critical root zone was needed and voted to continue the case. A discussion of revised materials and modifications is covered in the Specimen Trees section of this finding.

The following applications and associated plans were previously reviewed for the subject site:

Development Review Case #	Associated Tree Conservation Plan or Natural Resources Inventory #	Authority	Status	Action Date	Resolution Number
NA	NRI-149-2020	Staff	Approved	01/06/2021	NA
S-20001	NA	Planning Director	Certified	07/14/2021	NA
4-21028	TCP1-019-2021	Planning Board	Approved	05/05/2022	2022-54

Proposed Activity

The current application is a PPS for a conservation subdivision of six lots and one conservation parcel, for development of six single-family detached dwellings on a 6.35-acre site in the R-R Zone. It should be noted that this site is in the Developing Tier. In the Developing Tier, a conservation subdivision is an optional development method.

Grandfathering

This project is not grandfathered with respect to the environmental regulations contained in Subtitle 24 that came into effect on September 1, 2010, because the application is for a new PPS.

Site Description

The 6.35-acre property in the R-R Zone is located in the vicinity of Woodyard Road, located at the terminus of Rammer Drive just south of its intersection with Deborah Street. The property is currently improved with a trailer, with the remaining area being fully wooded. A review of available information, and as shown on the approved natural resources inventory (NRI), indicates that wetlands, streams, and partial steep slopes are found to occur on the property. The site does not contain any wetlands of special state concern. The site is located in the Middle Potomac watershed as mapped by Maryland Department of Natural Resources (DNR). The Prince George's County Department of the Environment watershed map shows that the entire site is

within the Piscataway Creek watershed of the Potomac River basin. The site generally drains from north and south to the stream located in the middle section of the site. The site is not identified by DNR as within a stronghold watershed area. The on-site stream is a Tier II stream and is within a Tier II catchment area. The predominant soils found to occur according to the U.S. Department of Agriculture, Natural Resource Conservation Service's Web Soil Survey include the Beltsville silt loam (5–10 percent slopes), Beltsville-Urban land complex (5–10 percent slopes), Marr-Dodon complex (5-10 percent slopes), and Widewater and Issue soils. Marlboro and Christiana clays are not found to occur on this property. According to available information from the DNR Natural Heritage Program, rare, threatened, and endangered species are not found to occur on-site. The property does not abut any historic or scenic roads.

Conservation Subdivision Ordinance

Section 24-152(f) requires the completion of the sketch plan process before a PPS application for a conservation subdivision is accepted. It is further required that the Planning Director or designee certify the completion of the sketch plan process, prior to acceptance of the PPS. S-20001 was reviewed to determine if the sketch plan fulfilled the intents listed in Section 24-152. S-20001 was certified by the Planning Director on July 14, 2021. The TCP1 is in conformance with S-20001.

CONFORMANCE TO APPLICABLE PLANS

Subregion 5 Master Plan

According to the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan), the site contains regulated areas and evaluation areas. The site is located within the Established Communities of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035.

The following policies and strategies from the Subregion 5 Master Plan regarding natural resources preservation, protection, and restoration are applicable to the current project. The text in **BOLD** is from the Subregion 5 Master Plan and the plain text provides comments on the plan's conformance.

Section V: Environment

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 the new development incorporates open space, environmental sensitive design, and mitigation activities.**

- **Protect, preserve and enhance the identified green infrastructure network.**

This conservation subdivision includes a conservation parcel that will have a conservation easement recorded to protect the streams, wetland systems, and tracts of contiguous woodland, in conformance with the Green Infrastructure Plan. A TCP1 was submitted with this application and will be discussed in detail in the environmental review section of this finding.

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.**

The property is in the Piscataway Creek watershed of the Potomac River basin, within a Tier II catchment area. Tier II waters are high-quality waters within the State of Maryland, as designated by MDE that are afforded special protection under Maryland's anti-degradation policy. A stream is associated with this project. The Prince George's Soil Conservation District (PGSCD) may require redundant erosion and sediment control measures for this site as part of their review and approval process.

The site contains a small wetland system, which is within a regulated area of the network. The PPS preserves the wetland system within a conservation parcel. The proposed site design goes above and beyond preservation of the wetland by also preserving a significant portion of woodland outside of the wetland buffer, which is consistent with the goal of the conservation subdivision regulations.

The property has a SWM Concept Plan (31347-2020-00), which was approved on November 19, 2021. The SWM concept plan shows use of grass swales, dry wells, permeable pavement, rooftop disconnects, and stormdrain outfalls that do not impact the PMA to meet the current requirements of environmental site design to the maximum extent practicable.

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 PPS does not propose any development activity in the PMA and preserves the on-site stream and wetlands system. Environmental site design is proposed for the project's SWM, utilizing grass swales, dry wells, permeable pavement, and rooftop disconnects. Septic systems and wells are not proposed. Impervious surfaces are minimized to the extent practicable for single-family detached residential.

D. Chesapeake Bay Critical Area

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

This site is not within, or in close proximity to the Chesapeake Bay Critical Area. No impacts or modifications to the Chesapeake Bay Critical Area are proposed as part of this PPS.

E. Air Quality and Greenhouse Gas Emissions

- **Reduce air pollution through transportation demand management (TDM) projects and programs.**
- **Promote "climate-friendly" development patterns through planning processes and land use decisions.**

- **Increase awareness of the sources of air pollution and greenhouse gas emissions.**

The PPS is for the development of six residential lots. Vehicular pollution should be minimized for the site.

2017 Countywide Green Infrastructure Plan

The site contains regulated and evaluation areas of the Green Infrastructure Plan. This area comprises a stream system with a minor wetland network.

The Green Infrastructure Plan was approved with the adoption of the *Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017) on March 7, 2017. According to the approved plan, the site contains regulated areas, while the remainder of the site is an evaluation area.

The following policies and strategies are applicable to the subject application. The text in **BOLD** is the text from the Green Infrastructure Plan and the plain text provides comments on plan conformance.

POLICY 1: Preserve, enhance, and restore the green infrastructure network and its ecological functions while supporting the desired development pattern of Plan Prince George's 2035.

1.1 Ensure that areas of connectivity and ecological functions are maintained, restored and/or established by:

- Using the designated green infrastructure network as a guide to decision-making and using it as an amenity in the site design and development review processes.**
- Protecting plant, fish, and wildlife habitats and maximizing the retention and/or restoration of the ecological potential of the landscape by prioritizing healthy, connected ecosystems for conservation.**
- Protecting existing resources when constructing stormwater management features and when providing mitigation for impacts.**
- Recognizing the ecosystem services provided by diverse land uses, such as woodlands, wetlands, meadows, urban forests, farms and grasslands within the green infrastructure network and work toward maintaining or restoring connections between these**

1.2 Ensure that Sensitive Species Project Review Areas and Special Conservation Areas (SCAs), and the critical ecological systems supporting them, are preserved, enhanced, connected, restored, and protected.

- a. Identify critical ecological systems and ensure they are preserved and/or protected during the site design and development review processes.**

The property is in the Piscataway Creek watershed of the Potomac River basin and is within a Tier II catchment area. The site contains a minor wetland system, part of which is within a regulated area of the network. The PPS preserves the system within a conservation parcel. The site design, as proposed, goes above and beyond preservation of the wetlands by also preserving a significant portion of woodland outside of the wetland buffer, which is consistent with the goal of the conservation subdivision regulations.

POLICY 2: Support implementation of the 2017 GI Plan throughout the planning process.

- 2.4 Identify Network Gaps when reviewing land development applications and determine the best method to bridge the gap: preservation of existing forests, vegetation, and/or landscape features, and/ or planting of a new corridor with reforestation, landscaping and/or street trees.**
- 2.5 Continue to require mitigation during the development review process for impacts to regulated environmental features, with preference given to locations on-site, within the same watershed as the development creating the impact, and within the green infrastructure network.**
- 2.6 Strategically locate off-site mitigation to restore, enhance and/or protect the green infrastructure network and protect existing resources while providing mitigation.**

The PPS indicates that the regulated system on-site will be fully preserved, with no impacts to the PMA. The design adequately preserves a connected wooded wetland system, in addition to other conservation areas. A TCP is required with this review, and the TCP1 approved with this application shows that more than the minimum woodland conservation requirement will be met on-site as preservation.

POLICY 3: Ensure public expenditures for staffing, programs, and infrastructure support the implementation of the 2017 GI Plan.

- 3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.**

- a. **Provide wildlife and water-based fauna with safe passage under or across roads, sidewalks, and trails as appropriate. Consider the use of arched or bottomless culverts or bridges when existing structures are replaced, or new roads are constructed.**

No fragmentation of regulated environmental features is proposed with this PPS. The environmentally sensitive areas on-site are being preserved to the extent practicable.

- b. **Locate trail systems outside the regulated environmental features and their buffers to the fullest extent possible. Where trails must be located within a regulated buffer, they must be designed to minimize clearing and grading and to use low impact surfaces.**

No trail systems or proposed master-planned trails exist or are included with this PPS.

POLICY 4: Provide the necessary tools for implementation of the 2017 GI Plan.

- 4.2 **Continue to require the placement of conservation easements over areas of regulated environmental features, preserved or planted forests, appropriate portions of land contributing to Special Conservation Areas, and other lands containing sensitive features.**

At time of final plat, conservation easements will be required for areas within the PMA that are proposed for retention, and for areas proposed as conservation parcels as part of the conservation subdivision. On-site woodland conservation will also be required to be placed in Woodland and Wildlife Habitat Conservation easements, prior to approval of a Type 2 tree conservation plan (TCP2).

POLICY 5: Improve water quality through stream restoration, stormwater management, water resource protection, and strategic conservation of natural lands.

- 5.8 **Limit the placement of stormwater structures within the boundaries of regulated environmental features and their buffers to outfall pipes or other features that cannot be located elsewhere.**
- 5.9 **Prioritize the preservation and replanting of vegetation along streams and wetlands to create and expand forested stream buffers to improve water quality.**

The proposal has received SWM concept plan approval. The approved SWM Concept Plan (31347-2020-00) shows use of grass swales, dry wells, permeable

pavement, rooftop disconnects, as well as stormdrain outfalls that do not impact the PMA, to meet the current requirement of environmental site design to the maximum extent practicable. This site is within a Tier II catchment area for Piscataway Creek. Tier II waters are high-quality waters within the State of Maryland, as designated by MDE, that are afforded special protection under Maryland's anti-degradation policy. A stream is associated with this project. PGSCD may require redundant erosion and sediment control measures for this site as part of their review and approval process. No SWM features are proposed to be located within the PMA.

POLICY 7: Preserve, enhance, connect, restore, and preserve forest and tree canopy coverage.

General Strategies for Increasing Forest and Tree Canopy Coverage

- 7.1 Continue to maximize on-site woodland conservation and limit the use of off-site banking and the use of fee-in-lieu.**
- 7.2 Protect, restore, and require the use of native plants. Prioritize the use of species with higher ecological values and plant species that are adaptable to climate change.**
- 7.4 Ensure that trees that are preserved or planted are provided appropriate soils and adequate canopy and root space to continue growth and reach maturity. Where appropriate, ensure that soil treatments and/ or amendments are used.**

Based on the approved TCP1, the design will exceed the minimum tree canopy coverage (TCC) requirement. The tree canopy requirement for the R-R Zone is 15 percent. The TCP1 provides 62 percent of the gross tract area in woodland conservation. Retention of existing woodlands and planting of native species on-site is required by both the 2018 Environmental Technical Manual, and the 2010 *Prince George's County Landscape Manual* (Landscape Manual).

Forest Canopy Strategies

- 7.12 Discourage the creation of new forest edges by requiring edge treatments such as the planting of shade trees in areas where new forest edges are proposed to reduce the growth of invasive plants.**
- 7.13 Continue to prioritize the protection and maintenance of connected, closed canopy forests during the development review process, especially in areas where FIDS habitat is present or within Sensitive Species Project Review Areas.**

- 7.18 Ensure that new, more compact developments contain an appropriate percentage of green and open spaces that serve multiple functions such as reducing urban temperatures, providing open space, and stormwater management.**

Clearing of woodland is included with the subject application. Woodland conservation is designed to minimize fragmentation and reinforce new forest edges. The retention of potential forest interior dwelling species (FIDS) habitat and green infrastructure corridors is included with TCP1-019-2021. Green space is encouraged in compact developments to serve multiple ecosystem services.

POLICY 12: Provide adequate protection and screening from noise and vibration.

- 12.2 Ensure new development is designed so that dwellings or other places where people sleep are located outside designated noise corridors. Alternatively, mitigation in the form of earthen berms, plant materials, fencing, or building construction methods and materials may be used.**

The site is not in proximity to any sources of adverse noise impacts which would need mitigation.

ENVIRONMENTAL REVIEW

Natural Resources Inventory Plan

An approved Natural Resources Inventory (NRI-149-2020) was submitted with the PPS. The site contains wetlands, streams, and associated buffers that comprise the PMA. The NRI indicates the presence of one forest stand labeled as Stand A, 15 specimen trees identified on-site, and five specimen trees identified off-site. The TCP1 and the PPS show all required information correctly, in conformance with the NRI.

Following the continuance of the March 3, 2022 Planning Board hearing, a revised NRI was submitted for review. At the March 3, 2022 hearing, attention was drawn to an additional specimen tree, which was located off-site, just outside of the eastern property boundary, adjacent to the proposed lots. Contrary to the requirements of the Environmental Technical Manual, information regarding this specific tree, a 48-inch diameter at breast height (DBH) Red Oak, was not provided for analysis on the original NRI and TCP1 submittals. The revised NRI shows the specimen tree, identified on the plan as ST-16, and the critical root zone. Prior to signature approval of the TCP1, the revised NRI showing the off-site specimen tree ST-16 shall be submitted to the Planning Department for approval by the Planning Director or designee. A detailed review of additional information submitted by the applicant regarding ST-16 is covered in the Specimen Trees section of this finding.

Erosion and Sediment Control

The county requires the approval of an erosion and sediment control plan. The TCP2 must reflect the ultimate limits of disturbance (LOD) not only for installation of permanent site infrastructure,

but also for the installation of all temporary infrastructure, including erosion and sediment control measures. A copy of the erosion and sediment control plan must be submitted with the TCP2 so that the ultimate LOD for the project can be verified and shown on the TCP2.

Woodland Conservation

This site is subject to the WCO and the Environmental Technical Manual because the application is for a new PPS. TCP1-019-2021 was submitted with the PPS and requires minor revisions to be found in conformance with the WCO.

The woodland conservation threshold (WCT) for this 6.35-acre property is 20 percent of the net tract area, or 1.27 acres. The total woodland conservation requirement based on the amount of clearing proposed is 1.72 acres. The applicant proposed an environmental conservation subdivision with this PPS, which requires the applicant to provide substantially more woodland conservation on the site than what is required. Section 24-152(d)(3), Land Distribution for Conservation Subdivisions, requires property within the R-R Zone to designate a minimum of 40 percent of the gross tract area as a conservation parcel. The conservation parcel included with this PPS totals 4.03 acres, or 64 percent of the gross tract area. The woodland conservation requirement will be satisfied with 3.93 acres of on-site woodland conservation, or 62 percent of the gross tract area. The 3.93 acres of on-site woodland conservation is significantly more than the 1.72-acre requirement, thus satisfying the woodland conservation goals of an environmental conservation subdivision.

Technical revisions to the TCP1 are required and included in the conditions of this approval.

Preservation of Regulated Environmental Features

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). The on-site regulated environmental features include streams, stream buffers, wetlands, wetland buffers, and steep slopes.

Section 24-130(b)(5) states: "Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All REF shall be placed in a conservation easement and depicted on the final plat."

Impacts to the regulated environmental features should be limited to those that are necessary for development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and 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 impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can 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 development of a property should be the fewest necessary and sufficient to reasonably develop the site, in conformance with County Code.

No impacts to PMA are approved as part of this PPS.

Specimen Trees

TCPs are required to meet all of the requirements of Subtitle 25, Division 2, (WCO). Section 25-122(b)(1)(G) requires the preservation of specimen trees. Every effort should be made to preserve the trees in place, considering the different species' ability to withstand construction disturbance (refer to the Construction Tolerance Chart in the Environmental Technical Manual for guidance on each species' ability to tolerate root zone disturbances).

If, after careful consideration has been given to their preservation and there remains a need to remove any of the specimen trees, a variance from Section 25-122(b)(1)(G) is required. Applicants can request a variance from the provisions of Division 2 of Subtitle 25 provided all the required findings in Section 25-119(d) of the WCO can be met. An application for a variance must be accompanied by a statement of justification (SOJ) stating the reasons for the request and how the request meets each of the required findings. A Subtitle 25 Variance Application and an SOJ in support of a variance dated December 7, 2021, was submitted by the applicant.

The SOJ requested the proposed removal of three of the existing 15 specimen trees located on-site. Specifically, the applicant sought to remove ST-2, ST-3, and ST-4. The TCP1 and the specimen tree removal exhibit show the location of the trees proposed for removal. The specimen trees proposed for removal are in poor to fair condition, and are located on-site, outside of the PMA, and within the upland residential development areas. A revised SOJ for the removal of specimen trees was submitted following the March 3, 2022 hearing. No additional specimen trees were requested for removal.

Specimen Tree Schedule Summary for Trees Proposed for Removal on TCP1-019-2021

ST #	COMMON NAME	DBH* (inches)	CONDITION	APPLICANT'S PROPOSED DISPOSITION
ST-2	Tulip Poplar	42	Poor	Remove
ST-3	Tulip Poplar	37	Fair	Remove
ST-4	Tulip Poplar	36	Fair	Remove

*Diameter at breast height

The proposed removal of the specimen trees was analyzed and is approved, in accordance with the required findings of Section 25-119(d)(1) below. Section 25-119(d)(5) makes clear that variances under this section are not considered zoning variances.

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

The property is 6.35 acres and contains approximately 1.72 acres of PMA comprising streams, wetlands, and associated buffers. This represents approximately 27.08 percent of the overall site area. These existing environmental conditions are peculiar to the property when compared to other properties in the area. The applicant proposed removing the specimen trees that are located within the upland residential development areas of the subdivision, while preserving the site's PMA to the fullest extent practicable and proposing more than twice the amount of WCT for the R-R Zone. Because of the conservation subdivision development approach with limited area available for residential development, and limitations to the number of lots that can be created on-site, the further limiting of developable area by protecting the root zones and specimen trees that are separated from the regulated areas by proposed residential lots will deprive the applicant of the opportunity to create a functional development. Specimen Trees ST-2, ST-3, and ST-4 are located upland in the northern portion of the property. The critical root zones of ST-3 and ST-4 are partially within the regulated areas. These trees are in poor to fair condition.

The approved use, for single family attached residential dwellings in a residential zone, is a significant and reasonable use for the subject site, and it cannot be accomplished elsewhere on the site without the variance. Development cannot occur on the portions of the site containing PMA, which limits the site area available for development. Requiring the applicant to retain the three specimen trees on the site would further limit the area of the site available for development to the extent that it would cause the applicant an unwarranted hardship.

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

The environmental conservation subdivision residential community includes housing options that align with the uses permitted in the R-R Zone, as well as the vision for such zones as described in the master plan. Based on the unique characteristics for the property, enforcement of these rules to preserve all specimen trees, along with an appropriate percentage of their critical root zone, would deprive the applicant of the right to develop the property in a similar manner to other properties zoned R-R in the area. In other words, if a similarly situated applicant made the same request, the variance would likely be approved. The applicant has met all of the woodland conservation requirements on-site and is protecting additional woodlands. The three specimen trees requested for removal are located within the most developable part of the site.

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

Not granting the variance would prevent the project from being developed in a functional and efficient manner. This is not a special privilege that would be denied to other applicants. If other similar residential developments were fully wooded with regulated environmental features and specimen trees in similar conditions and locations, it would be given the same considerations during the review of the required variance application.

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

The applicant has not removed the specimen trees or taken any other action leading to the conditions or circumstances that are the subject of the variance request. The removal of the three specimen trees would be the result of the location of the trees on the site and preserving the woodland conservation requirement on-site to achieve optimal development for the single-family attached dwelling subdivision with associated infrastructure.

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

There are no existing conditions relating to land or building uses on the site, or on neighboring properties, which have any impact on the location or size of the specimen trees. The trees have grown to specimen tree size based on natural conditions and have not been impacted by any neighboring land or building uses.

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

The removal of three specimen trees will not adversely affect water quality. In addition, the PPS is planned as an environmental conservation subdivision, which will not adversely affect water quality because the project is subject to the requirements of PGSCD and the SWM concept plan approved by DPIE. The applicant is meeting the entire woodland conservation requirement with on-site woodland preservation.

Revisions to Specimen Tree Inventory Following March 3, 2022 Planning Board Hearing

At the March 3, 2022 Planning Board hearing, an attorney representing the adjoining neighbor raised a concern that a specimen tree on the adjacent property to the east was not shown on the NRI plan or on the TCP1, and therefore not considered in the review. Subsequent to the hearing, this tree of concern was evaluated by a certified arborist, who provided a health and risk assessment of the tree, which is now identified on the revised NRI and TCP1 as ST-16, a 48-inch DBH Red Oak in poor condition. The arborist report identified multiple pruning wounds, cavities along the trunk, tip and branch dieback, and the presence of fungus. These are all symptoms indicating that the tree is in decline. Recommendations provided by the arborist for preservation of ST-16 include the reduction of heavy disturbance within the critical root zone, a 6- to 10-inch

layer of mulch to reduce compaction from equipment, and that roots 1-inch (or greater) be left with clean edges.

In response to these findings, the applicant revised the TCP1 to reduce the impacts to the critical root zone of ST-16 to approximately 14 percent, by refining the grading for the proposed road and associated drainage swale. Although this specimen tree is off-site, the level of grading and development within the 14 percent of the critical root zone is an acceptable level for the survivability of this tree. Had these circumstances occurred for a tree located on-site, the proposed disturbance of 14 percent would have also been found to be acceptable.

Concerns were also raised at the March 3, 2022 Planning Board hearing on the veracity of the Subtitle 25 Variance for the removal of three specimen trees. The arborist's report, completed on July 31, 2021 and included in the applicant's SOJ, indicates that ST-2 is in poor to fair condition, with ST-3 and ST-4 in fair condition, per the rating provided and consistent with the Appraisal Rating Guide in the Environmental Technical Manual. ST-2 is identified as having decay at the codominant attachment and having foliage discoloration and dieback. ST-3 has some peeling bark along the trunk and insect sawdust, which is a sign of insect damage. Finally, ST-4 has some exposed roots in addition to root girdling, with similar insect damage to ST-3. No additional information regarding the specimen tree variance request is required.

In sum, the required findings of Section 25-119(d) were adequately addressed for the removal of ST-2, ST-3, and ST-4, and the variance request to remove these trees is approved.

Based on the level of design information available at the present time, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible, based on the LOD shown on the TCP1.

17. **Urban Design**—The review of the subject application was evaluated for conformance to the Prince George's County Zoning Ordinance, as follows:

Single-family detached dwellings are permitted in the R-R Zone. Since there is no detailed site plan review required by the conservation subdivision regulations, bulk requirements, pursuant to Section 27-445.12 of the Zoning Ordinance are provided on the PPS.

Conformance with the regulations of the Zoning Ordinance is required for the approved development including, but not limited to, the following:

- Section 27-428, R-R Zone
- Section 27-441(b), Table of Uses for the R-R Zone
- Section 27-442, Regulations in the R-R Zone
- Section 27-445.12, Bulk regulations for Conservation Subdivisions and Public Benefit Conservation Subdivisions

- Part 10C, M-I-O Zone
- Part 11, Off-Street Parking and Loading
- Part 12, Signs

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 project that proposes more than 5,000 square feet of gross floor area of disturbance and requires a grading permit. Properties zoned R-R are required to provide a minimum 15 percent of the gross tract area under tree canopy. The subject site is 6.35 acres and therefore requires 0.95 acre of tree canopy coverage. Conformance with this requirement will be addressed at time of permit review.

Conformance with the Requirements of the Prince George's County Landscape Manual

In accordance with Section 27-428(c) of the Zoning Ordinance, the proposed development is subject to the Landscape Manual, specifically Section 4.1, Residential Requirements; and Section 4.9, Sustainable Landscaping Requirements. Conformance with the applicable landscaping requirements will be determined at time of permit review.

18. **Conservation Subdivision Criteria for Approval**—As a prerequisite to the filing of a conservation subdivision, the applicant was required to file a sketch plan. Per Section 24-152(f)(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. The sketch plan process was certified as having been completed for the proposed subdivision on July 14, 2021, and the determination therein is discussed further below, with consideration of the subject PPS.

Sketch Plan Approval for Conservation Subdivision

At the time of sketch plan, the following findings were made on the completion certificate signed by the Planning Director, dated July 14, 2021. These findings were addressed with this PPS, in order to find conformance with Section 24-152. The text in **BOLD** is the text from the completion certificate. The plain text provides the comments on the PPS conformance with the findings.

Staff finds that this site is appropriate for the use of an Environmental Conservation Subdivision, pursuant to Section 24-152 of the Prince George's County Subdivision Regulations, due to the specific environmental features of this site and the opportunities for a clearly superior environmental design, if the following are provided and/or proposed at the time of preliminary plan of subdivision as adjustments to the certified conservation sketch plan:

1. Propose a conservation subdivision lotting pattern that conforms to Section 24-152(h)(3)(B) of the Prince George's County Subdivision Regulations.

This section of the conservation subdivision regulations recommends that “a variety of lot sizes and lot widths should be provided within clusters of dwellings in order to prevent visual monotony.” On the PPS, the lots vary in size from 12,421 square feet to 16,456 square feet and vary in lot width. The majority of the lots front on a cul-de-sac, thus producing lots of varying shapes, sizes, and widths. This finding is therefore met.

2. Prior to submission of a preliminary plan of subdivision or the approval of any grading permit, whichever occurs first, Phase I (Identification) archeological investigations, according to the Prince George's County Planning Board's 2005 *Guidelines for Archeological Review*, shall be conducted on the above-referenced property to determine if any cultural resources are present. The applicant shall submit a Phase I Research Plan for approval by the staff archeologist of the Historic Preservation Section prior to commencing Phase I work. Evidence of Maryland-National Capital Park and Planning Commission concurrence with the final Phase I report and any other required archeological studies is required prior to issuance of the grading permit.

Prior to submission of the PPS, a Phase I archeology survey was completed on 2.3 acres of the subject property, and a draft report submitted. The findings and recommendations of the Phase I report (Stabler to Dr. Hill in a letter dated November 19, 2021) were concurred with. A copy of the final Phase I report, dated November 20, 2021, was submitted with the PPS. No additional archeological investigations are necessary. This finding is therefore met.

Conservation Subdivision Criteria for Approval

The three criteria that must be satisfied for the Planning Board to approve a conservation subdivision are set forth in Section 24-152(k). The criteria are listed below in **BOLD** text, while findings are provided in plain text.

(k) Criteria for Approval. The Planning Board shall find that the conservation subdivision:

(1) Fulfills the purpose and conforms to the regulations and standards for a conservation subdivision.

The PPS fulfills the purpose of a conservation subdivision by focusing the site design around the priority preservation of a number of environmentally sensitive and regulated features, (i.e., woodland conservation, wetland preservation, water quality measures for Tier 2 waters, preserving FIDS habitats, etc.) including features which may not otherwise be preserved. All regulations and standards for a conservation subdivision set forth in Section 24-152 have been satisfied by the PPS and with the conditions of this approval.

(2) Achieves the best possible relationship between the development and the conservation of site characteristics as prioritized in the sketch plan and preliminary plan;

The PPS achieves the best possible relationship between the proposed development and the conservation of site characteristics, with a focus on the existing conditions of the natural setting of the subject property. The approved sketch plan called for the prioritization of the woodland and other environmental features as the first priority for conservation and recognized the need for the preservation of the existing environmental areas. This was carried forward onto the PPS through preservation of the site's PMA, woodlands, and FIDS. A conventional subdivision would not normally seek to preserve the site's unique characteristics to the extent this PPS does; the use of a conservation subdivision as the means to achieve residential development on this site allows for expanded preservation of natural features and consolidation of the development area. The PPS provides a unique setting and the best possible relationship between the development and the conservation area.

(3) Because the use of the Conservation Subdivision technique in the Developed or Developing Tier is optional, the Planning Board shall also find that the proposed plan is clearly superior to that which could be achieved through the use of conventional development standards and clearly meets the purposes of the Conservation Subdivision technique. Lot yield shall be a secondary consideration to achieving the purposes of the Public Benefit Conservation Subdivision in assessing whether a proposed plan is clearly superior;

As part of the conservation subdivision requirements, the applicant submitted an exhibit showing a conventional lot layout, which depicts eight lots accessed by extension of Rammer Drive deep into the property, and extensive impacts required to the on-site environmental features for road construction. The conventional layout also shows a reduced conservation area of 1.78 acres (compared to the 4.03 acres of conservation on the PPS). In conventional development, the lots are also larger and thus associated with expanded areas of disturbance, clearing of woodland and removal of specimen trees.

This conservation subdivision creates conservation areas that connect to adjacent woodlands. The wooded areas to the south and the east of the subject property provide opportunities for woodland connectivity. None of these woodlands are currently in a protected state, and pursuing a conventional subdivision may allow development to dominate the subject property through expanded site grading and the total removal of the environmental features included for preservation. The subject PPS is clearly superior to that which could be achieved through the use of

conventional development standards and clearly meets the purposes of the conservation subdivision technique.

The criteria for approval of a conservation subdivision are found to be met.

Conservation Subdivision Regulations Conformance

Several relevant standards for conservation subdivisions are set forth in Section 24-152(g) to Section 24-152(j). These standards are listed below in **BOLD** text, while findings are provided in plain text.

(g) Conservation area.

- (1) The conservation area shall be located on a parcel or lot and characterized as primarily scenic, agricultural, historic, or environmental, or any combination.**

The conservation areas approved with this PPS are characterized as environmental.

- (A) A conservation easement for the purpose established on the preliminary plan shall be placed on the conservation area at the time of final plat. The conservation area shall be designated as either a parcel or a lot on the sketch plan, preliminary plan, and final plat.**

- (i) A conservation parcel that includes stormwater management facilities and septic recovery areas associated with the residential development area shall be conveyed to the homeowners' association.**

Conservation Parcel A does not include SWM facilities or septic recovery areas; but does show a stormdrain outfall into the stream. Parcel A will be conveyed to an HOA.

- (ii) A conservation lot may support one dwelling unit. Stormwater management or septic recovery areas not associated with the single-family dwelling unit on the conservation lot shall not be permitted.**

No conservation lots are included; therefore, this subsection is not applicable.

(2) Design criteria for conservation areas.

- (A) The area of the site required for a conservation parcel or lot shall be determined based on the priorities established in the review of the**

sketch plan, may include areas of the site not otherwise more specifically regulated by this Subtitle, and should be one parcel or lot to the extent possible.

- (B) Conservation areas shall connect with existing and potential conservation areas on abutting sites to encourage corridors of compatible site characteristics, unless it is found to be impractical due to topography, spacing or existing natural barriers.**
- (C) Naturally contiguous conservation areas shall not be divided for the sole purposes of obtaining allowable density.**
- (D) Fragmentation of the conservation area into small, irregularly shaped conservation parcels and lots shall be avoided.**

The PPS includes one conservation parcel containing environmental features. The conservation area prioritizes retaining not only the PMA, which would typically be prioritized with any conventional layout, but it also retains a large area of the existing woodlands covering the southern portion of the subject property. These environmental features are of value to similar adjacent environmental features and provide connectivity to and between those features in the vicinity of the subject property.

The conservation area is contiguous on-site and will be placed in a large, regular-shaped parcel. The conservation area connects to off-site existing woodland to the east and west of the site. Although the off-site woodland areas on abutting properties are well established and stable with no indication of potential redevelopment, they are on privately owned land and not protected. If these off-site areas were to be developed and the woodlands removed from them, Conservation Parcel A would be isolated. Nonetheless, the area preserved on-site provides for connection to potential conservation areas on abutting properties.

- (E) Farm structures shall be retained whenever possible.**
- (F) The subdivision layout shall be designed to minimize potential adverse impacts on existing farm operations.**
- (G) Woodland and wildlife habitat conservation required for the area of conservation parcels, or lots may be provided at an off-site location, only if it is necessary to preserve the rural and agricultural landscape.**

The PPS does not contain farm structures or farm operations, and all requirements of the WCO are met on-site; therefore, Sections 24-152(g)(2)(E)–(G) of the Subdivision Regulations are inapplicable.

- (H) Septic recovery areas and stormwater management facilities may be located on a conservation parcel to be maintained by the homeowners' association if there is no adverse impact to the character of that area of land, and it is demonstrated that the residential development area cannot support these facilities. Stormwater management facilities in conservation parcels should not include typical dry ponds with associated steep slopes, dams, mowed areas, fencing or unsightly overflow structures. Farm ponds, bioretention ponds, naturally contoured ponds and wet ponds with wetland edges and no visible structures are permitted on the conservation parcel which is to be maintained by the homeowners' association. Septic recovery areas within conservation parcels to be maintained by the homeowners' association should be designed to appear to be part of the existing landscape.**

Septic recovery areas are not included. According to the approved SWM Concept Plan (31347-2020-00), one stormdrain outfall structure is proposed on Conservation Parcel A. This outfall structure must be screened so it is not visible, in order to be in conformance with Section 24-152(g)(2)(H). The PPS, approved SWM concept plan, and TCP1 show that this outfall is set back from the perimeter property lines and shielded from view by existing vegetation. The grade differential between the location of this outfall and the nearest dwellings also ensures that it is not visible from these dwellings.

(h) Residential development area.

- (1) The residential development area shall include individual lots, recreational facilities, community or individual septic recovery areas, stormwater management facilities, and all easements and streets serving these lots.**

The residential development area is approximately 2.32 acres, or 36.4 percent of the gross tract area. The PPS includes six lots, each with its own single-family detached dwelling unit. SWM facilities are shown within the development envelope and are located on individual lots. No separate recreational space is provided on-site, and the mandatory dedication of parkland requirement will be met with a fee-in-lieu payment.

(2) Layout Design Criteria

- (A) Internal streets shall be sited to maintain the existing grade as much as possible.**

Rammer Drive, a public street, will be extended into the property to provide frontage and access to the approved lots. The extension of Rammer Drive has been sited to maintain the existing grade as much as possible, in conjunction with being designed, in accordance with public street standards which require minimum horizontal and vertical curvature standards.

- (B) Lots and the siting of dwellings shall be arranged and sufficiently set back to preserve views of the site characteristics from streets and abutting properties.**

The lots and dwellings are concentrated in a development area close to the front of the property, such that the majority of the environmental features in the rear have clear visual access from abutting properties. There are no streets within direct view of the property.

- (C) Dwellings should not be located in the center of open fields or on a ridgeline.**

Dwellings will not be located in the center of open fields or on a ridgeline.

- (D) Existing farm roads and driveways should be incorporated into the internal street or trail design where possible.**

There are no existing farm roads or driveways on the subject property.

- (E) Access to all lots should be from interior streets and easements.**

Access to all lots will be from extension of Rammer Drive, which is a public street, and will be entirely internal to the subdivision.

- (F) Dwellings and streets should be located at the edges of woodlands or situated in a manner that will maximize the amount of contiguous wooded area left intact.**

The development area of the site, consisting of dwellings and the street, is on a portion of the subject property that is least suitable for conservation. This area is within the northern part of the subject property, and adjacent to the existing street and single-family dwellings

on the neighboring properties. The development area contains fewer specimen trees, is less wooded, and has smaller areas of steep slopes compared to the proposed conservation area. Concentrating development on this area of the subject property prevents the PMA from being impacted and maximizes the amount of contiguous wooded area left intact.

- (G) Proposed street and driveway crossings through wetlands, floodplains, steep slopes, and streams are prohibited, unless the crossing will provide more efficient lot and street layout that provides less net disturbance of these features than an alternative layout.**

No street or driveway crossings through wetlands, floodplains, steep slopes, or streams are included in this PPS.

- (H) Trees on ridgelines should be preserved.**

The property does not contain a defined ridgeline. The property generally slopes from north and south toward the stream located in the central portion of the site.

- (I) Dwellings should be located a minimum of forty (40) feet from any environmentally regulated area, including woodland conservation areas.**

The lot layout and the proposed location of dwellings, as depicted on the PPS, the SWM concept plan, and TCP1, demonstrate that the 40-foot setback requirement for dwellings is met.

(3) Lot Specific Design Criteria

- (A) Buildings and driveways shall be sited to maintain the existing grade as much as possible.**

Lot design, as shown on the TCP1 and the SWM concept plan, was reviewed. The proposed dwellings and driveways are sited to maintain the existing grade as much as possible. Extension of Rammer Drive has been designed, in accordance with public street standards, which require minimum horizontal and vertical curve standards. The short driveways connecting the dwellings to the public street are graded to meet the street edge while still maintaining a safe slope.

- (B) A variety of lot sizes and lot widths should be provided within clusters of dwellings in order to prevent visual monotony. Since the variety of lot sizes and lot widths in a Public Benefit Conservation Subdivision may be limited, to the extent that such variation is impracticable, the applicant may provide a variety of house facades and enhanced streetscape elements for lighting, landscaping and sidewalks.**

The lots vary in size from 12,421 square feet to 16,456 square feet and vary in lot width. The majority of the proposed lots front on a cul-de-sac, thus producing lots of varying shapes, sizes, and widths.

- (C) Dwellings should be sited to avoid the rears being oriented toward the fronts of other dwellings and external streets. A landscape plan may be required to provide for the buffer of views of the rear and sides of dwellings from all streets and easements and the fronts of other dwellings.**

The lot layout sites the dwellings such that no rear façade of the dwellings is oriented toward the fronts of other dwellings. There are no external streets which would need to be considered while orienting the dwellings.

- (D) Direct driveway access for individual lots onto perimeter streets shall be avoided unless necessary for safety reasons or for some other benefit such as environmental preservation.**

There are no perimeter streets in or around this subdivision.

- (E) Large expanses of driveways and parking areas shall not be visible from the external streets and abutting properties.**

No large expanses of driveways and parking areas are proposed.

- (4) Stormwater management. The applicant shall utilize low-impact development (LID) techniques, unless otherwise authorized by the Department of Permitting, Inspections, and Enforcement. For purposes of this Section, “low-impact development (LID) techniques” refer to stormwater management designs that accommodate stormwater through the use of existing hydrological site features and by reducing impervious surfaces (roadways), curbs, and gutters; decreasing the use of storm drain piping, inlet structures; and eliminating or decreasing the size of stormwater ponds. Due to the constraints associated with the lot sizes in a Public Benefit Conservation Subdivision, traditional stormwater management designs and practices may need to be utilized, particularly adjacent to lots of less than**

twenty thousand (20,000) square feet where urban street construction utilizing sidewalks should be provided. However, the use of LID and integrated management practices shall be encouraged to enhance stormwater management. Such integrated management practices may include bioretention, dry wells, filter buffer, infiltration trenches and similar techniques.

The applicant included an approved SWM Concept Plan, 31347-2020-00, with the PPS. The SWM concept plan shows use of grass swales, dry wells, permeable pavement, and rooftop disconnects, as well as stormdrain outfalls that do not impact the PMA, to meet the current requirements of environmental site design to the maximum extent practicable.

- (5) Gateway Signs permitted pursuant to Section 27-624 shall be reviewed by the Urban Design Section prior to the approval of the sign permit for compatibility with the character of the surrounding and proposed community.**

No gateway signs are included with this PPS.

- (6) Lighting techniques should be utilized that decrease adverse impacts on the adjoining and abutting properties.**

Lighting techniques that decrease adverse impacts on the adjoining and abutting properties should be utilized. The minimization of light intrusion from development on the subject property onto adjacent residential properties, and from the proposed homes and roadway onto the environmental conservation parcel is encouraged. The use of streetlights and entrance lighting, except where required by DPIE, is discouraged. No lighting plan was submitted with this PPS to show use of alternate lighting technologies and minimization of light intrusion, as building details are not approved as part of a PPS. However, the use of full cut-off optic light fixtures has been included as a condition of this PPS, in order to ensure this requirement is satisfied.

- (i) Scenic and Historic Roads. Development along a designated scenic or historic road shall conform to the following standards:**

- (1) There should be no views of the rears of dwellings from the road.**
- (2) Engineered berms for screening purposes are not permitted unless they are constructed to mimic natural contours.**
- (3) Fencing along the road shall be rural in character.**

- (4) Views from scenic and historic roads shall be preserved or may be created through the installation of landscaping that mimics natural conditions.**
- (5) Trees and vegetation shall not be removed within the required setback unless in accordance with an approved tree conservation plan.**
- (6) Existing slopes and tree tunnels along the street frontage should be retained, unless required to be removed by the Department of Public Works and Transportation (DPW&T) or the State Highway Administration (SHA) for frontage improvements.**
- (7) Buildings that are located within two hundred (200) feet from the street should be sited such that the principal entrance is oriented toward the street.**
- (8) A scenic easement shall be provided along the frontage of a designated scenic or historic road abutting the 10-foot public utility easement. The scenic easement shall be a minimum of forty (40) feet and increased where appropriate to retain unique characteristics of the scenic and historic character of the road.**
- (9) In general, access (public and private) to a scenic or historic road should be limited to the extent possible unless for safety reasons or for some other benefit such as environmental preservation, or to implement the stated purposes of this Division.**
- (10) Septic recovery areas shall not be permitted within the scenic easement, unless determined appropriate.**

While the subject property is not abutting to an historic road, Woodyard Road, which is an historic road, is located approximately 600 feet north of the property. However, the subject property is shielded from view from Woodyard Road by existing development.

(j) Streets.

- (1) A conservation subdivision may be served by public and private streets, and access easements.**
- (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.**

Rammer Drive, an existing 50-foot-wide public right-of-way adjoining the northern boundary of the subject property, has been extended and terminates in a cul-de-sac on the subject property to provide access to the lots. Per the Guidelines, primary residential streets in new subdivisions shall be designed with a 50-foot-wide right-of-way, unless the street serves an estimated average daily traffic volume of 500 trips or greater. The plan provides a 50-foot-wide right-of-way into the property, which is adequate to serve the residential development.

Draft Conservation Subdivision Easement Document

Section 24-152(l)(3) requires that the applicant provide a draft conservation subdivision easement document. The applicant included a draft document in the project submission. This document must meet the requirements for easement documents listed in Sections 24-152(n) and (o). As per Section 24-152(n), the conservation area shall be owned and controlled by an individual, HOA, public or private organization, land trust, or corporation. An ownership and maintenance agreement shall be part of the conservation easement deed, to ensure responsibility for the maintenance and continued protection of the remaining conservation areas not being dedicated to M-NCPPC. Conservation Parcel A shall be owned and maintained by the HOA.

Section 24-152(o) provides that the conservation easement shall be recorded in the land records, prior to final plat approval. This section also requires that regardless of who the owner of a conservation area is or will be, there shall be an additional party to the easement in addition to the property owner. For this conservation subdivision, the applicant has identified a national land trust organization as the additional party to the proposed conservation easement. The easement document will be further reviewed at the time of final plat.

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 Doerner, seconded by Commissioner Geraldo, with Commissioners Doerner, Geraldo, Bailey, and Shapiro voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, May 5, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 26th day of May 2022.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:MG:rpg
APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department
Date: May 10, 2022