



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-04115

Application	General Data
Project Name: McKEE PROPERTY Location: North side of Martin Road, approximately 2,000 feet from the intersection of Molly Berry Road. Applicant/Address: K-B Development, L.C. 2139 Blue Knob Terrace Silver Spring, MD 20906	Date Accepted: 07/13/04
	Planning Board Action Limit: 01/14/05
	Plan Acreage: 121.14
	Zone: O-S
	Lots: 22
	Election District: 11
	Planning Area: 86A
	Tier: Rural
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 217SE12

Purpose of Application	Notice Dates
SINGLE-FAMILY RESIDENTIAL, This case was continued from the Planning Board hearing of October 21, 2004, at the request of the applicant.	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-58-2003) 05/20/04
	Sign(s) Posted on Site and Notice of Hearing Mailed: 09/21/04

Staff Recommendation		Staff Reviewer: Whitney Chellis	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-04115
McKee Property Lots 1-22

OVERVIEW

The property is located on Tax Map 147, Grid C-1, and is known as Parcel 2. The site is zoned Open Space (O-S) and is approximately 121.14 acres. The applicant is proposing to subdivide the property into 22 lots for the construction of single-family dwelling units. The property is located in water and sewer service category 6 and is to be served by private well and sewer systems located on individual lots. At the writing of the original staff report dated October 21, 2004, the Health Department had not approved the required recovery fields for the septic systems for any of the lots proposed. The Subdivision Regulations require that adequate water and sewer services be provided. Without the Health Department approval, staff was compelled to recommend disapproval of this application at the Planning Board hearing of October 21, 2004, until such time as adequate service could be assured for the future residents of the subdivision. The applicant granted a 70-day waiver and requested a continuance at the Planning Board hearing to address this issue. The case was continued to an unspecified date, and was therefore re-posted for this hearing of December 16, 2004.

At the writing of this staff report all but two of the lots proposed (Lots 3 and 13) have displayed a proven minimum 10,000-square-foot recovery area (RA) for septic system use, as discussed further in Finding 10 of this report.

The property has frontage on Molly Berry Road, North Keys Road, and Martin Road. The applicant has proposed access to Martin Road only. No access will be provided to North Keys Road and Molly Berry, generally due to the 100-year floodplain, wetlands, stream, and steep and severe slopes that traverse the property's northern property line. All of the lots front on Martin Road and will be served by internal access to the subdivision with no lot having direct vehicular access onto Martin Road. The plan proposes no impacts to these environmental features.

The applicant was made aware in July, when the preliminary plan was submitted, that staff would not support lots of less than five acres, in the Rural Tier, along any existing public street. When utilizing varying lot sizes, as provided for in the Zoning Ordinance, an applicant can propose lots of less than five acres, as discussed further in Finding 12 of this report. While there are no specific findings required when utilizing varying lot sizes, staff believes that in the Rural Tier five-acre lots should be required along all existing public streets and that this should be established as an expectation by the Planning Board for preliminary plans of subdivision submitted in the Rural Tier, when utilizing varying lot sizes. Staff has consistently recommended this standard. Applicants, however, consistently advise staff that there is no requirement for this and therefore they do not need to reflect this recommendation.

The preliminary plan proposes five lots that have frontage on Martin Road. Originally two of the five lots were less than five acres. At the request of staff, the applicant revised the plan to increase one of the lots to five acres but Lot 1 remains less than five acres. Lot 1 is proposed at three acres and is located in the southwest corner of the site with frontage on Martin Road and the proposed internal public street. The applicant has indicated that the Lot 1 does not need to be five acres because it will not make a visual difference along the street. The applicant argues that proposed Lot 11 directly across the street is five acres and the house is sited closer to the street than the dwelling on proposed Lot 1. Staff would argue that the location of the dwelling is not the issue. In fact, staff agrees that in many traditional rural areas dwellings were located close to public streets to provide the greatest opportunity for access in inclement weather. In fact, the staff concern is the amount of land area associated with the principal dwelling. Staff believes that the issue is not associated with the location of the dwelling or necessarily the configuration of the lot, but the amount of land area associated with a principal dwelling. In this case, staff believes that two acres, the difference between what staff recommends (Staff Exhibit A) and what the applicant is proposing, is significant. A difference in two acres has the ability to change the landscape and character of Lot 1.

Within the proposed subdivision, the width available for Lot 1 is limited. The increase may result in an increase in lot depth, not lot width, along the street. However, staff does not believe that unique circumstances exist in this case to compromise department policies that are established to promote the preservation policies of the Rural Tier. The applicant was advised in July that staff would not support lots of less than five acres along Martin Road. The revised plan was submitted and continues to propose a three-acre lot along Martin Road. Staff recommends that Lot 1 be deleted and the area of the lot incorporated into abutting lots, resulting in a minimum five-acre lot along the external public street (Martin Road).

SETTING

The subject property is located on the north side of Martin Road and on the south side of the intersection of North Keys Road and Molly Berry Road. The property is bisected by a Potomac Electric Power Company (PEPCO) right-of-way, located on property owned by PEPCO. The property is zoned Open Space (O-S) and is generally undeveloped. The surrounding properties are zoned O-S, often used agriculturally, and are rural in character.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	O-S	O-S
Use(s)	Vacant	Residential
Acreage	121.14	121.14
Lots	0	22
Parcels	1	0
Dwelling Units:		
Detached	0	22

2. **Environmental**—A stream system with nontidal wetlands and 100-year floodplain is found along the northwest boundary of the site, connecting with a stream system to the east. The site is partially wooded and was subject to recent logging. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically

Significant Areas in Anne Arundel and Prince George's Counties," December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this lot. Adverse noise impacts from transportation sources are not anticipated. The property is located in the Spice Creek watershed and the Patuxent River basin.

A detailed forest stand delineation (FSD) was submitted with this application that fulfills all requirements. An addendum was also submitted to address the area of clear-cut tree harvesting on the site. The description submitted indicates that the area is regenerating satisfactorily enough to be credited as woodland preservation. Any additional management requirements in logged areas of the site will be addressed as notes on the Type I tree conservation plan and will be evaluated further at the time of Type II tree conservation plan preparation, based on the condition of the regeneration and the location of the final woodland conservation areas.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because it is greater than 40,000 square feet in gross tract area, there are more than 10,000 square feet of existing woodland, and more than 5,000 square feet of woodland clearing is proposed. A Type I tree conservation plan (TCPI/67/04) was submitted concurrently with the preliminary plan application.

The minimum requirement for this site according to the submitted plan is 55.55 acres of woodland conservation, plus additional woodland replacement acreage due to removal of 30.43 acres of woodland, for a total minimum requirement of 63.15 acres.

The TCPI proposes to meet the woodland conservation requirement with 62.66 acres of on-site preservation and 1.52 acres of on-site afforestation, for a total of 64.18 acres of woodland conservation. Preserved woodlands have been proposed in the Patuxent River Primary Management Area (PMA) that is the priority location for woodland retention on this site. The TCPI shows the conceptual location of houses and conceptual grading that supports the TCPI. A 100-year floodplain study has been submitted that confirms the area of the 100-year floodplain. The delineation of the 100-year floodplain is correct, but the graphic symbol used on the TCPI does not match the graphic symbol used in the legend; the label in the legend should be corrected to read "100-year floodplain" instead of "floodplain"; and a note should be added to the TCPI indicating the source of the floodplain delineation and approval number.

Afforestation is proposed on Lot 17. Afforestation on private lots requires the installation of a permanent tree protection device, such as a split-rail fence or equivalent. This shall be addressed during the preparation of the TCPII. Logging has occurred on the site, and some of the woods proposed for preservation are regenerating woodlands. These areas are indicated by shading on the plan, and a note indicates that these will be areas of special concern in the preparation of the TCPII.

The TCPI does not include a lot-by-lot woodland conservation table, nor has it been signed and dated by the qualified profession who prepared it. The lot-by-lot table is needed because in the O-S Zone, individual lots are typically developed on a lot-by-lot, custom basis. A table of woodland conservation on a lot-by-lot basis is necessary at time of TCPI review and approval to define the existing woodlands, proposed clearing, and woodland conservation provided on each lot.

Development of this subdivision should be in compliance with the Type I Tree Conservation Plan (TCPI/67/04) approved as part of this application.

The preliminary plan includes the location of significant environmental features, which occur on this site, including streams and a minimum 50-foot-wide stream buffer. In combination, these environmental features, along with adjacent nontidal wetlands, wetland buffers, and 100-year floodplain, severe slopes, and steep slopes on highly erodible soils compose the Patuxent River Primary Management Area in accordance with Section 24-130 of the Subdivision Ordinance. The delineation of the PMA has been confirmed by the submittal of an approved 100-year floodplain study.

The Subdivision Ordinance mandates that the PMA be preserved to the fullest extent possible. The preliminary plan and TCPI do not show any proposed impacts to the PMA. However, these areas should be protected by a conservation easement that should be described on the final plat of subdivision.

The site contains soil series that have limitations that may affect the development of this property such as high water tables, impeded drainage, slope, slow permeability, and stability. Although these limitations may affect the construction phase of this development, there are no apparent limitations that would affect the site design or layout of the site if the expanded stream buffer were preserved. During the review of building permits the Department of Environmental Resources may require a soils study addressing the limitations of these soils with respect to the construction of homes.

North Keys Road and Molly Berry Road are designated historic roads in the *Historic Sites and District Plan*. The functional classification for these roads is a collector. An inventory of significant visual features for the right-of-way should be provided as a baseline for the review of the scenic/historic road viewshed. This information should be included on the FSD for the site. The significant visual/landscape features of this site, identified by the visual inventory, are then taken into consideration in the design of roadway and right-of-way improvements. No inventory of significant visual features was submitted for this site.

A minimum 40-foot-wide scenic easement, set behind the public utility easement, is recommended along the frontage of historic roads as proposed. Within the scenic easement the preservation of existing trees or planting of a landscape buffer equivalent to the D bufferyard is recommended. The plan delineates a 40-foot-wide scenic easement in all areas except on Lot 10, where a reduced-width scenic easement is proposed for the location of a septic system. This is acceptable if the location of the primary system is outside of the 40 foot-wide scenic easement. On Lot 10, a 40-foot-wide scenic easement should be labeled and the term “40-foot-wide average scenic easement” removed from the plan. The primary and recovery areas should be located outside of the scenic easement.

Any improvements within the right-of-way of a historic road are subject to approval by DPW&T under the *Design Guidelines and Standards for Scenic and Historic Roads*. Before a paving and stormdrain plan is submitted to DPW&T, and preferably before engineering design of roadway improvements has begun, a conceptual preapplication meeting with the applicant, DPW&T, and M-NCPPC staff is required in accordance with the *Design Guidelines and Standards for Scenic and Historic Roads*. At the conceptual preapplication meeting, the applicant will be required to make available adequate base information so that attending agencies can make fundamental design decisions. Roadway design criteria will be determined for the roadway by DPW&T with consideration for the scenic and historic features of the site. Decisions will represent a compromise agreement based on the design guidelines and standards for scenic and historic roads, minimum DPW&T safety standards, and minimum AASHTO design standards.

To retain the rural character of the viewshed along Martin Road, it is desirable for any lot adjacent to

the road to meet the minimum five-acre lot size. A 100-foot-wide building restriction line has been shown along the Martin Road right-of-way.

Stormwater management concept approval letter (24363-2004-00) has been submitted. Water quality requirements for this site will be met through the use of open section roadways with grass swales, rooftop disconnects, and environmentally sensitive design credits.

Water and Sewer Categories

The water and sewer service categories are W-6 and S-6 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources. The subdivision is to be served by private systems.

3. **Community Planning**—The subject property is located within the limits of the Subregion VI master plan, Planning Area 86A in the Marlton Community and the 2002 General Plan locates the property in the Rural Tier.

The Subregion VI Study Area master plan discusses the proposed type of large-lot residential development where a key-planning objective is to preserve the rural character of this part of the county. The plan points out that “conventional low-density O-S Zone development continues to erode the rural landscape” (plan, page 77). Rural community character will ultimately be subsumed into a suburban, albeit low-density, development pattern when the area is fully built-out under existing five-acre residential zoning. Therefore, the plan contains guidelines to further the objective of preserving rural character in this area. On pages 80-82, the plan provides the following pertinent guidelines:

- “2) The retention of woodlands for recreation and conservation should be encouraged. Any vacant, undeveloped land not wooded should be adequately stabilized by vegetative coverage.
- “3) Large-scale clearing and grading of land should be carefully controlled to prevent the unnecessary destruction of woodlands.
- “4) Every effort should be made in order to preserve scenic roads during road improvements.
- “5) The special nature of scenic areas, historic sites, farmland, and woodlands should be enhanced through distinctive landscaping and site design.
- “6) Land developers should be encouraged to capitalize on natural assets by the retention and protection of trees, streams, and other ecological features. All development should be sensitive to the topography and should minimize the damage to natural vegetation cover....
- “7) Homes should be located to minimize site disturbance. Wherever possible, they should not be placed in the center of open fields and/or on ridgelines. They should be sited at the edges of fields and in wooded areas with minimum tree cutting to minimize visual impact. Treed areas between the home and the street should be retained. The creation of extensive lawn areas should be discouraged.
- “9) The use of private gravel streets and common driveways is encouraged within a subdivision to minimize building and maintenance costs. There will be no cost to the county and the

gravel streets will be in concert with the rural landscape. Streets should follow the natural contours to the extent possible, and homes should be sited as close to existing grade as possible.

- “10) Homes should be sufficiently set back from roads in order to preserve scenic view sheds and to maintain the rural character. The views from the road should be protected through provision of landscaping where necessary.
- “11) A variety of setbacks are encouraged in order to prevent visual monotony typically found in suburban residential subdivisions.”

This preliminary subdivision proposal is designed according to the varying lot size (VLS) regulations in the Zoning Ordinance (Subtitle 27), resulting in a number of lots smaller than the conventional five-acre lot size in the O-S Zone and as discussed in Finding 12 of this report. One of the smaller lots and the clearing for the required septic field is located on the southwest periphery of the site along Martin Road. Consideration should be given to redesigning the lot pattern to place larger lots along the periphery of the site or requiring woodland preservation/ reforestation measures along the right-of-way to comply with the rural living area guidelines cited above. In July, staff requested that the plan be revised to adjust to the policies of the General Plan. The preliminary plan was revised to increase the size of one of the two lots abutting Martin Road to meet the five-acre requirement. However, the plan still proposes a three-acre lot along Martin Road. Staff is recommending that Lot 1 be deleted and the area incorporated into Lot 2 (Staff Exhibit A) as discussed further in Finding 10 and 12 of this report.

Staff has recommended that a 40-foot scenic historic road easement be provided outside the 10-foot public utility easement along Martin Road and also recommended a 100-foot building setback from Martin Road to assist in the preservation of the rural character. The preliminary plan originally demonstrated direct access from Lot 33 onto Martin Road. Staff requested that the plan be revised so that access to the lots is only via internal public roads. The plan was revised to relocate the access to Lot 33 from the internal road.

While the applicant has made several revisions to the plan to accommodate the vision of the General Plan, staff believes that this should be a matter of course on the part of the applicant and not an issue up for negotiation. Conformance to the General Plan vision should be a minimum standard in the original design of a proposed subdivision. With the increase in Lot 1 to a minimum five acres, staff believes that the preliminary plan would then conform to the recommendations of the 2002 General Plan.

- 4. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the proposed subdivision is exempt from the requirements of the mandatory dedication of parkland because all of the lots proposed exceed one acre in size.
- 5. **Trails**—Four master plan trail/bikeway issues are identified in the adopted and approved Subregion VI master plan that impacts the subject site. Martin Road, North Keys Road, and Molly Berry Road are designated as Class III bikeways. This can be addressed with the provision of bikeway signage and, if frontage improvements are required, paved asphalt shoulders.

The master plan also recommends a trail within the PEPCO right-of-way. However, due to liability concerns no trail is recommended within this right-of-way. There are no other equestrian trail issues identified on the subject site in the master plan.

Due to the rural nature of the community, roads in the vicinity of the subject site are open section with no sidewalks. No recommendations regarding sidewalk facilities are made for the subject application.

6. **Transportation**—The application is a preliminary plan of subdivision for a residential development consisting of 22 lots. The proposed development would generate 17 AM (4 in, 13 out) and 20 PM (13 in, 7 out) peak-hour vehicle trips as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The traffic generated by the proposed preliminary plan would impact the intersection of Croom Road (MD 382) and Candy Hill Road. The intersection is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

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

Links and signalized intersections: Level-of-service (LOS) C, with signalized intersections operating at a critical lane volume (CLV) of 1,300 or better;

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

The critical intersection, when analyzed with existing, background and site-generated trips as developed using the guidelines, was found to be operating with a delay of less than 20 seconds/car during the AM peak hour and 25 seconds/car during the PM peak hour. Both projected delays are well within the acceptable policy service level required.

The Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved.

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	22 sfd	22 sfd	22 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	5.28	1.32	2.64
Actual Enrollment	5,334	5,131	10,098
Completion Enrollment	351.84	217.62	398.97
Cumulative Enrollment	196.08	128.22	256.92
Total Enrollment	5,887.20	5,478.16	10,756.63
State Rated Capacity	5,384	4,688	8,770
Percent Capacity	109.35	116.85	122.65

Source: Prince George's County Planning Department, M-NCPPC, December 2003

These figures are correct on the day the referral memo was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution of approval will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

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

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue facilities and concluded the following:
 - a. The existing fire engine service Brandywine Fire Station, Company 40, located at 14201 Brandywine Road, has a service travel time of 8.05 minutes, which is beyond the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road, has a service travel time of 8.05 minutes, which is beyond the 6.25-minute travel time guideline.

- c. The existing paramedic service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road, has a service travel time of 8.05 minutes, which is beyond the 7.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.

The above findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan* (1990) and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

The Historic Preservation and Public Facilities Planning Section has concluded that the entire development is beyond the recommended response times from existing facilities that provide ambulance service and paramedic service. This finding is based on using the existing road system and existing stations.

The staff of the Historic Preservation and Public Facilities Planning Section found that the planned Croom-Naylor emergency services facility will be the first due station that will provide ambulance and paramedic service to this development. The cost of the emergency services facility is \$1,535,000. In order to mitigate the ambulance and paramedic response time deficiencies, the applicant should participate in providing a fair-share contribution toward the construction of the Croom-Naylor emergency services facility.

The fee amount is based on the construction cost of the facility (\$1,275,000), ambulance (\$130,000), and paramedic service (\$130,000), divided by the total amount of residential and employment population within the entire service area in 2006 (3,541). The service area includes those areas that will be served by the planned facility. The fair share fee is \$1,300 per dwelling unit for this development.

2006 service area population/workers = 3,541
Station Cost 1,535,000/3541 = \$433 per person x 3.0 (household size) = \$1,300 per dwelling unit
\$1,300 x 22 dwelling units = \$28,578 for ambulance and medic

9. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision
10. **Health Department**—The property is located in water and sewer service category 6, which requires that the development be served by private water and sewer service. The applicant has been working with the Health Department and to date percolation tests have not yet been approved on all of the lots. Alterations to the lotting pattern could occur as a result of further testing, as well as the possibility of failed percolation tests.

Section 24-104 of the Subdivision Regulations establishes that one of the purposes of the subdivision process is to ensure that adequate water and sewer facilities are available to serve the residents of the community.

The Environmental Engineering Program of the Health Department has reviewed a revised preliminary plan of subdivision for McKee Property and has the following comments to offer:

- “a. The development of the subdivision is projected to utilize individual sewage disposal systems and individual water supply systems. With the exception of Lot 3 (previously known as Lot 25) and Lot 13 (previously Lot 35), all the remaining lots as shown on the above-mentioned revised plan display a proven minimum 10,000-square-foot recovery area (RA) for septic system use.
- “b. Lot 3 (Lot 25): The recovery area (RA) inscribed around the percolation tests (PT) performed in November 2003 is still unacceptable because hole designations do not match the perk report diagram in regard to the distances and spatial relationships between each other and, therefore, the holes cannot be identified with any certitude. Advisement was posted on the previous memo dated October 21, 2004, for the surveyor and this office to meet at the site to properly identify the various holes and this suggestion, again, is offered to address this remaining concern. However, an additional satisfactory PT (conducted on June 16, 2004) was identified and included on this revision, located at a higher elevation in a different area on the south end of this lot. Provide an additional PT within this proposed RA to define a usable 10,000-square-foot area. Remove the PT hole designation labeled H located between contours 156 and 158.
- “c. Lot 13 (Lot 35): Conduct a standpipe and gravel perk test at the location where PT 4 was done to attempt to mollify the slow rate (28 minutes) witnessed in that earlier test. If a rate of at least three to four minutes was obtained, then only the minimum 10,000-square-foot RA would be required. Or, if this is not achieved, then another satisfactory PT would need to be witnessed in an expanded RA as suggested in the area as outlined in orange on the amended plan. Another WT, too, would be needed to support this additional test since this expanded area lies over 100 feet from the original WT and since wide variability is recorded in the soil profiles within the other PTs and WTs. The additional tests for both Lots 3 and 13 can be performed any time in the year.”

On July 30, 2004, the applicant was advised that each proposed lot must display a proven minimum 10,000-square-foot recovery area (RA) for septic system use in order for staff to recommend approval of that lot. Therefore, based on the comments above, the applicant should revise the preliminary plan to delete Lots 3 and 13 because they do not have proven recovery areas. Staff Exhibit A retains the location of the dwelling on Lot 3, but utilizes the approved recovery area on Lot 2. The land area of Lot 2 is redistributed resulting in Lot 1 being a minimum of five acres. This revision would result in a loss of one lot and serve two purposes: deleting a lot that does not have adequate sewer service and increasing the area of Lot 1 to reflect a more rural character as discussed in the Overview section and Finding 3 of this report. The area of Lot 13 should be incorporated into Lot 12, also reflected on the staff exhibit. However, the applicant may propose an equal or better distribution of the land area of Lots 3 and 13 at the time of signature approval.

11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater

Management Concept Plan, #24363-2004-00, has been approved. To ensure that development of this site does not result in on-site or downstream flooding, development must be in accordance with this approved plan.

12. **Varying Lot Size**—The applicant is proposing to use varying lot sizes as permitted by the Prince George’s County Zoning Ordinance. Unlike the provision for the use of lot size averaging (R-55, R-80, R-R, and R-E Zones), the use of varying lot sizes in the R-A and O-S Zones does not require specific findings for approval. However, the minimum standards outlined in the Zoning Ordinance must be met.

The applicant is proposing to subdivide the property into 22 lots for the construction of single-family dwellings. Section 27-442(b) (Table I) of the Zoning Ordinance sets the minimum standards for varying lot sizes in the O-S Zone as follows:

- a. **The minimum lot size for 60% of the lots is 5 acres,**

Comment: Of the 22 lots proposed, 14 meet or exceed five acres, or 63 percent.

- b. **One (1) two acre lot is permitted for each 50 acres of tract area,**

Comment: The site is 121.44 acres; two 2-acre lots are permitted, one 2.12-acre lot is proposed.

- c. **All remaining lots must be a minimum of 3 acres,**

Comment: The remaining seven lots are three acres or greater.

- d. **All lots created shall be restricted to single-family dwellings or agricultural uses, and**

Comment: The lots are proposed for the construction of single-family dwelling units.

- e. **No portion of the subdivided tract shall be resubdivided unless under certain circumstance.**

Comment: A new preliminary plan of subdivision would be required to divide the property further, ensuring conformance to this condition.

Staff would note that the applicant has proposed a three-acre lot along Martin Road. While not a requirement of the varying lot size (VLS), staff does not generally support the smaller lots in a VLS subdivision to be located along the street. The property is located within the Rural Tier; policies of the 2002 General Plan promote enhancing the quality and character of existing communities and the preservation of rural, agricultural and scenic areas and the protection of sensitive lands. The possible appearance of a higher density subdivision is not consistent with these policies. Staff recommends that in keeping with the rural character, the larger lots within a VLS subdivision be located along the existing streets to preserve the rural vistas and character.

Within the proposed subdivision, the width available for Lot 1 is limited. The increase may result in an increase in lot depth, not lot width, along the street. However, staff does not believe that circumstances exist in this case to compromise department policies that are established to promote the preservation policies of the Rural Tier. The applicant was advised in July that staff would not support lots of less than

five acres along Martin Road. The revised plan was submitted and continues to propose a three-acre lot along Martin Road. Staff recommends that Lot 1 be increased to a minimum of five acres in conformance with Staff Exhibit A.

13. **Historic**—The Planning Board has determined that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications, and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. The Hill family is documented to have been living in the area pre-Civil War and to be slave owners, based on the 1850 slave census. It is possible the site was actively farmed and it is also possible that there were slave dwellings and slave burials on this property.

Staff requested of the applicant a Phase I archeological investigation. The applicant submitted a Phase IA report that is the evaluation of documentary evidence for the property. Not included was a Phase IB report that documents a field investigation. The applicant should submit a Phase IB archeological investigation if determined appropriate by Planning Department staff and a Phase II and Phase III investigation. The final plat should, if necessary, provide for the avoidance and preservation of the resources in place and should provide appropriate plat notes ensuring the mitigation of any adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

RECOMMENDATION:

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. Increase the area of Lot 1 to a minimum of five acres, in accordance with Staff Exhibit A.
 - b. Delete Lot 13 and incorporate that area into Lot 12, in accordance with Staff Exhibit A.
 - c. Remove dwelling units.
 - d. Revise the varying lot size table to accurately reflect the 13.2 dwelling units that are required at five acres, or 14.
 - e. Provide an existing structures note.
 - f. Provide the approval date of the SWM Concept Plan.
 - g. Label area of dedication along all public rights-of-way as shown on the preliminary plan of subdivision.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan #24363-2004-00 and any subsequent revisions.

4. Prior to approval of the final plat the applicant shall submit a Phase IB archeological investigation, as determined appropriate by Planning Department staff, and a Phase II and Phase III investigation. If necessary, the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland (Schaffer and Cole: 1994)* and must be presented in a report following the same guidelines.
5. The applicant, his heirs, successors and/or assignees shall provide a fee to Prince George's County, which shall serve as a fair-share contribution toward the construction of the Croom-Naylor Station and acquisition of an ambulance and paramedic unit. The fee shall be paid prior to the issuance of the each building permit. The fee amount is \$1,300 per lot.
6. The final plat shall include the following along Martin Road:
 - a. A 40-foot scenic/historic road easement outside the 10-foot public utility easement.
 - b. Deny access from any lot with frontage.
 - c. Require a 100-foot building setback.
7. The applicant shall dedicate a right-of-way along Martin Road, Molly Berry Road, and North Keys Road at the time of final plat as shown on the preliminary plan of subdivision.
8. The Adopted and Approved Subregion VI Master Plan recommends that North Keys Road, Molly Berry Road, and Martin Road be designated as Class III bikeways with appropriate signage. Because North Keys Road, Molly Berry Road, and Martin Road are county rights-of-ways, the applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$630 to the Department of Public Works and Transportation for the placement of this signage. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If road frontage improvements are required by DPW&T, wide asphalt shoulders are recommended to safely accommodate bicycle traffic.
9. Prior to signature approval of the TCPI the plan shall be revised as follows:
 - a. The graphic symbol used on the TCPI to identify the 100-year floodplain shall match the graphic symbol used in the legend.
 - b. The label in the legend should be corrected to read "100-year floodplain" instead of "floodplain."
 - c. A note should be added to the TCPI indicating that the source of the floodplain delineation and approval number.
 - d. A lot-by-lot woodland conservation table shall be added to the plan.
 - e. The revised plan shall be signed and dated by the qualified professional who prepared it.

10. At time of TCPII, the plan shall address the following:
 - a. Previously logged areas of the site shall be reviewed to determine what best management practices should be applied to make the areas appropriate for woodland conservation on lots.
 - b. Permanent tree protection devices shall be provided for afforestation proposed on lots.
11. The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/67/03), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy.”
12. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area 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."
13. Prior to signature approval of the preliminary plan, an Inventory of Significant Visual Features for the right-of-way and site view shed adjacent to Molly Berry Road and North Keys Road shall be submitted.
14. Prior to signature approval of the preliminary plan, the preliminary plan and TCPI shall be revised as follows:
 - a. Delineate a 40-foot-wide scenic easement adjacent to Martin Road on Lot 10.
 - b. Remove the label “average 40 foot-wide scenic easement.”
 - c. Show the location of the primary and secondary septic systems outside of the 40-foot-wide scenic easement.
 - d. Have the plans signed and dated by the qualified professional who prepared them.
15. At time of final plat, a 40-foot-wide scenic easement shall be established behind the public utility easement adjacent to North Keys, Molly Berry, and Martin Roads and a note shall be placed on the final plat as follows:

“North Keys and Molly Berry Road are county designated Historic Roads. The scenic easement described on this plat is an area where the installation of structures and roads and/or 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.”

16. Roadway improvements on Molly Berry Road and North Keys Road shall be in accordance with *Design Guidelines and Standards for Scenic and Historic Roads* prepared by the Department of Public Works and Transportation. The applicant shall coordinate a conceptual pre-application meeting between the Department of Public Works and Transportation and M-NCPPC to determine what road improvements are required prior to detailed site plan and/or paving and stormdrain plan submittal, whichever comes first.
17. At time of final plat, a building restriction line shall be delineated adjacent to the North Keys, Molly Berry, and Martin Roads right-of-way and the following note shall be placed on the plat:

“The 100-foot-deep building restriction lines delineated on this plan are placed to protect the scenic and rural character of the Rural Tier, and are areas where the installation of structures and/or 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.”
18. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
19. The final plat shall demonstrate dedication along Martin Road, Molly Berry Road and North Keys Roads consistent with the approved preliminary plan of subdivision.