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## Preliminary Plan 4-10025

Application	General Data	
<b>Project Name:</b> Conte Point  <b>Location:</b> Approximately 700 feet southeast of the intersection of Brandywine Road and Thrift Road.  <b>Applicant/Address:</b> Joseph Conte 130 Defense Highway Annapolis, MD 21401  <b>Property Owner:</b> Joseph Conte 130 Defense Highway Annapolis, MD 21401	Planning Board Hearing Date:	03/31/11
	Staff Report Date:	03/23/11
	Date Accepted:	01/25/11
	Planning Board Action Limit:	04/05/11
	Mandatory Action Timeframe:	70 Days
	Plan Acreage:	33,541 sq. ft.
	Zone:	R-80
	Gross Floor Area:	N/A
	Lots:	2
	Parcels:	0
	Planning Area:	81A
	Tier:	Developing
	Council District:	09
	Election District	09
	Municipality:	N/A
	200-Scale Base Map:	213SE06

Purpose of Application	Notice Dates	
Two single-family dwelling unit lots.  Variance request from Section 27-442(e).	Informational Mailing	12/10/10
	Acceptance Mailing:	01/07/11
	Sign Posting Deadline:	03/01/11

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Justin Thornton <b>Phone Number:</b> 301-952-4334 <b>E-mail:</b> Justin.Thornton@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
		X	

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-10025  
Conte Point, Lots 1 and 2

OVERVIEW

The subject property is located on Tax Map 12, in Grid C-2, and is known as Parcel 120. The property is zoned One-Family Detached Residential (R-80) and is 33,541 square feet. The subject application for Conte Point is a proposed subdivision of Parcel 120 into two lots (Lots 1 and 2). Existing Parcel 120 has never been the subject of a preliminary plan of subdivision, and is improved with a single-family dwelling unit which is to remain. The existing dwelling unit is to be retained on proposed Lot 2. The existing dwelling will no longer meet the required main building setback established per section 27-442(e), Table IV of the Zoning Ordinance because right-of-way dedication is required as a part of this application, the applicant has filed a variance.

The minimum lot size for a dwelling unit in the R-80 Zone is 9, 500 square feet. Proposed Lots 1 (12,853 square feet) and 2 (16,721 square feet) have street frontage on Brandywine Road, a master plan collector facility with an 80-foot wide right-of-way. The subject application proposes direct driveway access for Lots 1 and 2 to Brandywine Road.

Proposed Lot 1 is inconsistent with the lotting pattern and resulting building orientation of the existing dwellings in the immediate area. It is staff's analysis that the configuration of proposed Lot 1, while not technically a flag lot, will function as a flag lot. Flag lots are no longer permitted by the Prince George's County Code. During the Subdivision Development Review Committee (SDRC) meeting on February 18, 2011, the applicant was advised that Lot 1 would not be supported by staff for reasons as stated in this report.

The applicant has been advised of the property owner's option of raising the existing house and reorienting the house in order to provide the proposed two lots with a more conventional orderly lot layout and not require a variance from the Zoning Ordinance for the building setback for the existing dwelling. Due to the configuration of proposed Lot 1, the location of a dwelling on this lot must be set back over 120 feet from the street to conform to the minimum lot width. This results in the "stacking" effect of a flag lot. The front of the dwelling on Lot 1 is oriented to the rear of the dwelling on Lot 2. Lot 1 has the minimum lot width at the front street line for a conventional lot and is therefore not technically a flag lot; however, because of the dwelling unit setback, and the narrow width in the front, it appears as a flag lot.

Staff is recommending disapproval of the subdivision of the subject property because the proposed lot configuration does not meet a reasonable standard of design, and is not orderly as it relates to the surrounding lotting patterns.

## SETTING

The subject property is located on Brandywine Road, approximately 700 feet southwest of the intersection of Brandywine Road and Thrift Road. The site is relatively flat and is totally surrounded by single-family dwellings oriented in a traditional lotting pattern.

## 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	R-80	R-80
Use(s)	Residential	Residential
Acreage	33,541 sq. ft.	33,541 sq. ft.
Lots	0	2
Outlots	0	0
Parcels	0	0
Dwelling Units:		
Detached	1 (to remain)	2 (1 new)
Public Safety Mitigation Fee	No	Yes
Variance	No	Yes (Section 27-442(e))
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on February 18, 2011.

2. **Environmental**—The preliminary plan of subdivision, stamped as received on January 25, 2011, has been reviewed. The Environmental Planning Section recommends approval of Preliminary Plan 4-10025, subject to conditions.

This site was previously reviewed by the Environmental Planning Section for the approval of a Natural Resources Inventory, NRI/27/10. This application seeks the approval of a preliminary plan to subdivide the existing 33,541-square foot parcel in the R-80 Zone into two single-family residential lots. This parcel currently has one existing dwelling.

### Site Description

The subject property is located on Brandywine Road, approximately 700 feet southeast of the intersection of Brandywine Road and Thrift Road. The site is relatively flat and contains only a small portion of woodland (less than 1,000 square feet), which extends onto the property from a larger forest stand on an abutting property. The site drains into the Piscataway Creek watershed in the Potomac River Basin. The predominant soil type on the site is in the Aquasco-Urban land complex series. This soil type generally exhibits slight limitations due to somewhat impeded drainage. Based on information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this site. There are no floodplains, streams, Waters of the U.S., or wetlands associated with the site. There are no Marlboro clays or Christiana complex soils located on or

adjacent to the subject property. The site has frontage along Brandywine Road, a designated historic road. This property is in the Developing Tier as delineated on the approved *Prince George's County Approved General Plan*.

### **Master Plan Conformance**

The site is within Planning Area 81A of the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. There are no specific environmental recommendations or design standards that require review for conformance. The environmental requirements for woodland conservation, noise, and stormwater management are addressed in the Environmental Review section below.

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

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

### **Environmental Review**

The site has a signed natural resources inventory (NRI) that was submitted with the application. The site contains less than 1,000 square feet of woodland and does not contain any regulated environmental features. The elements of the signed NRI are correctly reflected on the preliminary plan.

This property is not subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the gross tract area of the subject property is less than 40,000 square feet in size and has no previous tree conservation plan (TCP) approvals. A standard letter of exemption was issued for the site on December 10, 2010. A Type 1 tree conservation plan was not submitted with the review package and is not required.

Subtitle 25, Division 3: Tree Canopy Coverage Ordinance requires a minimum percentage of tree canopy coverage (TCC) on all applications that require a tree conservation plan or letter of exemption. Properties that are zoned R-80 are required to provide a minimum of 15 percent of the gross tract area in tree canopy. The gross tract area is 0.77 acre resulting in a requirement for TCC of 0.12 acre.

The site has frontage along Brandywine Road, a master-planned collector roadway that is not regulated for noise. The proposed residential use is located far enough from possible nearby noise sources (4,950 feet west of Branch Avenue, a master-planned freeway) so that noise is not an issue.

Brandywine Road was designated a historic road in the 1993 Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B, and has the functional classification of a collector. Any improvements within the right-of-way of an historic road are subject to approval by the Department of Public Works and Transportation (DPW&T) in accordance with the *Design Guidelines and Standards for Scenic and Historic Roads*. Roadway design criteria will be determined for the roadway by DPW&T with consideration for any scenic or historic features of the site which may be identified.

At the time of permit, the frontage of this subdivision will be required to comply with the requirements of the *Prince George's County Landscape Manual*, Section 4.6 for buffering development from special roadways. In the Developing Tier, a minimum 20-foot-wide buffer is required to be planted with a minimum of 80 plant units per 100 linear feet of frontage, excluding

driveway openings, and plant materials are required to be located outside of the public utility easement (PUE). Alternative compliance may be required because of the existing location of the dwelling on Lot 2 is located within the buffer, which should be provided outside the 10-foot public utility easement.

A stormwater management concept plan was submitted with the subject application, but the stormwater management concept letter was not. Approved Stormwater Management Concept Plan (33629-2010-00) was noted on the preliminary plan.

According to the *Prince George's County Soils Survey*, the principal soil on this site is in the Aquasco-Urban land complex series. This soil type generally exhibits slight limitations due to somewhat impeded drainage.

4. **Community Planning**—The applicant proposes retention of the existing dwelling and construction of a new single-family dwelling. In accordance with the General Plan, this application is located in the Developing Tier.

The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The approval of the subdivision will change the character of the lotting pattern and would be inconsistent with the immediate area.

The proposed land use is consistent with the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment*.

5. **The Department of Parks and Recreation (DPR)**—In accordance with Section 24-134(a) of the Subdivision Regulations, the applicant should pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.
6. **Trails**—The preliminary plan was reviewed for conformance with the *Countywide Master Plan of Transportation* (MPOT) and the approved Subregion 5 Master Plan.

The subject property is located on Brandywine Road. Sidewalks are currently present along some sections of Brandywine Road. On-road bicycle lanes and sidewalks are recommended in the approved Subregion 5 Master Plan to accommodate bicyclists and pedestrians between Piscataway Road (MD 223) and Robert S. Crain Highway (MD 301). It is recommended that bikeway warning signage be placed on Brandywine Road by the applicant to implement the bikeway until such time that DPW&T constructs on-road bicycle lanes.

A sidewalk should be constructed by the applicant along the entire property frontage of Brandywine Road to implement the area master plan recommendations. It is recommended that this sidewalk be shown on the preliminary plan.

Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities would exist to serve the proposed use as required under Section 24-123 of the Subdivision Regulations.

7. **Transportation**—The proposed development would generate a net of 1 AM and 1 PM weekday peak-hour vehicle trip as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

The lot being created would have direct driveway access to Brandywine Road, a master plan collector facility. In consideration of the current and planned function of the roadway, and given current operating speeds and traffic volumes, the driveway onto proposed Lot 1 should utilize a turnaround capability in order to minimize the need for vehicles accessing this lot to back onto Brandywine Road. It is noted that proposed Lot 2 is developed; however, the lot will require a new driveway since the existing driveway is actually on proposed Lot 1. Therefore, the new driveway onto Lot 2 should also be constructed with a turnaround capability.

Brandywine Road is a master plan collector facility. The plan reflects right-of-way dedication of 40 feet from centerline, which is acceptable.

The traffic generated by the proposed preliminary plan would impact the intersections of Brandywine Road/Thrift Road and Brandywine Road/Surratts Road. These intersections are signalized.

### **Analysis of Traffic Impacts**

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

- **Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.
- **Unsignalized intersections:** *The Highway Capacity Manual* (Transportation Research Board) procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The critical intersections of Brandywine Road/Thrift Road and Brandywine Road/Surratts Road are programmed for improvement with 100 percent construction funding within the next six years in the current Prince George's County Capital Improvement Program. It is noted, however, that full funding is dependent upon developer contributions for a portion of the funding.

No current turning movement counts are available at the critical intersections. Nonetheless, previous findings made by the Planning Board have indicated that the capital project improvements are particularly important to traffic circulation in the area. Widening the link of Surratts Road eastward from Brandywine Road is anticipated to provide an outlet for traffic using Brandywine Road. Also, the intersection improvements at Brandywine Road/Surratts Road that are a part of this CIP project are important because this intersection currently operates poorly in both peak hours. A number of recent developments in the area, the most recent being Surratts Crossing (Preliminary Plan of Subdivision 4-05073), have received a common set of conditions requiring a pro rata payment toward improvements to Brandywine and Surratts Roads. These improvements are needed to attain LOS D or better operations at the critical intersections. The Department of Public Works and Transportation (DPW&T) administers a funding arrangement that allows developments in the area to pay a fair share of the cost of the improvements.

Due to the limited trip generation of this site, the Planning Board could deem the site's impact at this location to be de minimus. Notwithstanding the site trip generation, there are capital improvements in the immediate area that are to be fully funded only with developer contributions. While only consisting of one new lot, staff recommends that the applicant be required to contribute in the same way that other developments in the area have been so required and pay a fair share prior to the issuance of the building permit for Lot 1.

The site is adjacent to Brandywine Road, which is shown on the master plan as a collector facility with a right-of-way width of 80 feet. Dedication of 40 feet from centerline along Brandywine Road is shown on the submitted plan.

8. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 2	High School Cluster 3
Dwelling Units	2 DU	2 DU	2 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	.32	.26	.28
Actual Enrollment	3,867	5,564	7,081
Total Enrollment	3,867.32	5,564.26	7,081.28
State Rated Capacity	3,761	5,430	7,792
Percent Capacity	102.8%	102.5%	90.9%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,299 and \$14,227 to be paid at the time of the issuance of each building permit.

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

9. **Fire and Rescue**—This preliminary plan of subdivision includes construction of a single-family dwelling on one residential lot.

This preliminary plan is within the required seven-minute response time for the first due fire station, Clinton, Company 25, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn fire and rescue personnel staffing levels.

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

**Capital Improvement Program (CIP)**

The Prince George's County Capital Budget and Program for Fiscal Years 2011–2016 provides funding for a replacement Fire/EMS station at 14201 Brandywine Road.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the "Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure."

10. **Police Facilities**—The subject property is located in Police District V, Clinton.

The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on January 25, 2011.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Cycle 1	1/2010-12/2010	11 minutes	9 minutes
Cycle 2	2/2010-1/2011	11 minutes	9 minutes
Cycle 3	3/2010-2/2011	11 minutes	9 minutes

The response time standard of 10 minutes for emergency calls was not met while 25 minutes for nonemergency calls was met on March 21, 2011.

The rolling twelve-month average for response times in District V were provided for three monthly cycles following the acceptance of the subject application. If the response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls are not met by the third monthly cycle of response time reports and the actual response times for both emergency and/or nonemergency calls do not exceed 20 percent above the required response times, the applicant may offer to mitigate. The applicant may enter into a mitigation plan with the county and file such plan with the Planning Board. The Planning Board may not approve the preliminary plan until a mitigation plan is submitted and accepted by the county. If the response times for emergency calls and /or nonemergency calls are greater than 20 percent above the required emergency response time, the applicant may not mitigate.

In accordance with CR-78-2005, the applicant may offer to mitigate by paying a mitigation fee per dwelling unit, providing in kind services or pooling resources. In this case the applicant has indicated an agreement to pay the mitigation fee for Lot 1; however, a mitigation agreement has not been entered into due to the staff recommendation for disapproval.

The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.



Pursuant to CR-69-2006, Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn police personnel staffing levels.

11. **Health Department**—The Prince George's County Health Department, Environmental Engineering Program, has reviewed the preliminary plan of subdivision and has no comments to offer.
12. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, 33629-2010-2008-00, has been approved with conditions 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.
13. **Historic**—A Phase I archeological survey is not recommended on the above-referenced 0.77-acre property located at 10211 Brandywine Road in Clinton, Maryland. 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 low.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies, or federal permits are required for a project.

The subject property has no effect on identified historic sites, resources, or districts.

14. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider must include the following statement in the dedication documents established on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a ten-foot PUE along the public rights-of-way as requested by the utility companies. The PUE must remain free and clear from any site improvements including parking.

15. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2008 *Water and Sewer Plan*, as adopted by CR-91-2008, placed this property in water and sewer Category 3, Community System, and will therefore be served by public systems.

16. **Lot 1**—Lot 1 of this proposed subdivision functions as a flag lot. As shown on the preliminary plan, Lot 1 has a lot width at the front streetline of 54.51 feet. Lot 2 has a lot width at the front street of 88.20 feet, located at the eastern corner of the site, with an access driveway to the street. The applicant has proposed a flag-style lot appearance for Lot 1. Lot 1 is 80 feet wide in the flag portion of the lot with the stem narrowing down to 54 feet wide where it passes between the building envelopes of Parcel 147 and proposed Lot 2.

The lot configuration orients the rear of the dwelling on Lot 2 towards the front of the dwelling on Lot 1, a configuration which mimics the flag lot design. In 2006, the County Council passed legislation (CB-4-2006) which no longer permits the use of flag lots because of the stacking of dwellings in the rear of other dwellings. While Lot 1 is not technically a flag lot, because they are no longer permitted and both lots meet the technical requirements of the R-80 Zone, it establishes a dwelling unit and lotting pattern that mirrors a flag lot.

During the Subdivision Development Review Committee (SDRC) meeting on February 18, 2011, staff's concern over the design of Lot 1 was noted and the applicant was urged to research other options for the subdivision of Parcel 120, including moving the existing house location which would result in the applicant's ability to subdivide the property at staff level in a conventional layout. This would also eliminate the need for a variance from the Zoning Ordinance and could be supported. However, the applicant decided to keep the current flag lot design layout for this subdivision.

Although the surrounding lots are zoned R-80, the community along Brandywine Road more closely resembles the visual lotting pattern of the R-R (Rural Residential) Zone as it relates to lot width and frontage requirements. The neighborhood surrounding this proposed subdivision include lots that are developed in a traditional manor with the dwellings fronting on a public street and back yards and side yards abutting neighboring back and side yards. This traditional lotting pattern creates a recognizable visual housing pattern along Brandywine Road, which helps to establish a suburban-like setting for these residents. The existing neighborhood dwelling unit orientation creates a harmonious relationship, providing usable private rear yard spaces for the residents and visible continuity in the neighborhood.

Based on previous discussion, staff recommends that this property would most appropriately continue to exist as one dwelling unit on one parcel, which is in keeping with the existing lotting pattern along Brandywine Road. Staff is recommending disapproval of the subdivision of the subject property because the proposed lot configuration does not meet a reasonable standard of design, and is not orderly as it relates to the surrounding lotting patterns.

17. **Variance to Section 27-442(e), Table IV of the Zoning Ordinance**—The subject property is part of a larger parcel which the applicant is proposing to subdivide into two single-family lots. The existing house will be located on proposed Lot 2. Subtitle 24 of the County Code requires dedication of abutting land that is shown on an applicable county master plan or transportation plan as part of the road right-of-way. In this case, Brandywine Road has an 80-foot-wide right-of-way, and the applicant must provide 40 feet from the centerline of the street. After dedication, the existing dwelling unit will be approximately 20 feet from the right-of-way, which is five feet less than the requirements of the R-80 Zone as set forth in Section 27-442(e), Table IV of the Zoning Ordinance. As a result, a variance of five feet is required, and was submitted by the applicant. Staff did review the variance, but a full analysis was not performed because staff is recommending disapproval of this preliminary plan of subdivision.

RECOMMENDATION

DISAPPROVAL.