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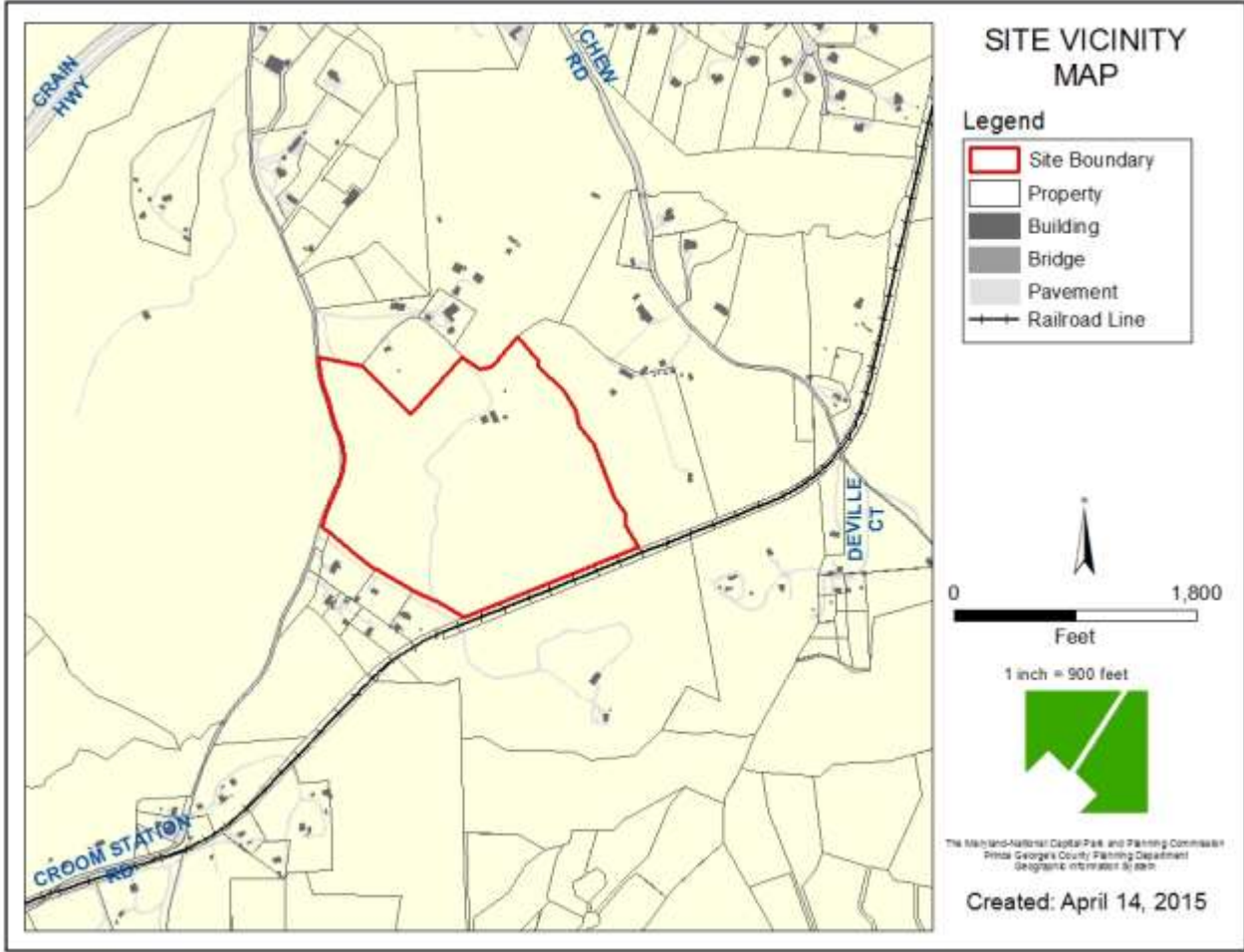
## Type 2 Tree Conservation Plan

## TCP2-004-15

Application	General Data	
<b>Project Name:</b> Wyvill Property Woodland Conservation Bank  <b>Location:</b> On the east side of Croom Station Road and the west side of the CSX Railway Line, approximately 800 linear feet north of Croom Road (MD 382).  <b>Applicant/Address:</b> Michael T. Wyvill, Jr. and Family 5707 Croom Station Road Upper Marlboro, MD 20772	Planning Board Hearing Date:	04/30/15
	Staff Report Date:	04/13/15
	Date Accepted:	02/11/15
	Planning Board Action Limit:	N/A
	Most Recent Revision:	N/A
	Plan Acreage:	75.22
	Zone:	R-A
	Dwelling Units:	N/A
	Square Footage of Proposed Structure:	N/A
	Planning Area:	82C
	Council District:	09
	Municipality:	N/A
	200-Scale Base Map:	210SE13

Purpose of Application	Notice Dates	
This Type 2 tree conservation plan requires Planning Board approval because the site is subject to a Historic Agricultural Resources Preservation Program (HARPP) easement held by The Maryland-National Capital Park and Planning Commission.	Adjoining Property Owners: (CB-15-1998)	N/A
	Previous Parties of Record: (CB-13-1997)	N/A
	Sign(s) Posted on Site:	N/A
	Variance(s): Adjoining Property Owners:	N/A

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Kim Finch <b>Phone Number:</b> 301-952-3506 <b>E-mail:</b> Kim.Finch@ppd.mncppc.org	
		<b>APPROVAL</b>	<b>DISAPPROVAL</b>
	<b>APPROVAL WITH CONDITIONS</b>		<b>DISCUSSION</b>
	X		



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT PROPERTY: Type 2 Tree Conservation Plan TCP2-004-15  
Wyvill Property Woodland Conservation Bank

The Environmental Planning staff has completed the review of the subject application and appropriate referrals. The following evaluation and findings lead to a recommendation of APPROVAL with no conditions, as described in the Recommendation section of this report.

EVALUATION

This Type 2 tree conservation plan for a woodland conservation bank was reviewed and evaluated for compliance with the following criteria:

- a. The requirements of Section 5-1010.1 (Forest Conservation) of the Annotated Code of Maryland and COMAR 08.19.03.01 Ordinance for Local Program, for "forest mitigation banking;"
- b. The requirements of Subtitle 25, Division 2, Prince George's County Woodland and Wildlife Habitat Conservation Ordinance;
- c. The requirements of the Environmental Technical Manual: Part A. Woodland and Wildlife Habitat Conservation Technical Manual; and Part B. Guidelines for the Preparation of a Natural Resources Inventory;
- d. The requirements of Subtitle 29, Division 9, Historic Agricultural Resource Preservation Program;
- e. Regulations adopted by the Prince George's County Planning Board on January 10, 2008 for the implementation of the Historic Agricultural Resource Preservation Program (HARPP); and,
- f. Referral comments.

FINDINGS

Based upon the evaluation and analysis of the subject Type 2 tree conservation plan (TCP2-004-2015), the Environmental Planning staff recommends the following findings:

1. **Request:** The purpose of this application is to approve a specialized TCP2 for the establishment of an off-site woodland conservation bank on a property with an existing Historic Agricultural Resources Preservation Program (HARPP) easement granted to the Prince George's County Planning Board.

The site is 75.22 acres and located in the Rural-Agricultural (R-A) Zone consisting of one parcel. Perpetual protection of 51.40 acres of existing woodlands on the site is proposed to be used as off-site woodland conservation banking credits.

2. **Location:** The subject site is located on the east side of Croom Station Road and the west side of the CSX Railway Line approximately 800 linear-feet north of Croom Road (MD 382).
3. **Site Description:** This 75.22-acre property in the R-A Zone contains streams, wetlands, wetland buffers, and areas of steep and severe slopes. The site is located within a Stronghold Watershed as established by Maryland Department of Natural Resources (DNR). Stronghold watersheds are those watersheds in the state that are most important for the protection of Maryland's aquatic biodiversity, where rare, threatened, or endangered freshwater fish, amphibians, reptiles, or mussel species have the highest numbers (abundance and number of occurrences).

The property contains no wooded 100-year floodplain and 52.18 acres of upland woodland including riparian buffers within the designated primary management area (PMA), covering approximately 70 percent of the site. The remainder of the site is actively managed as agricultural row crops. The soils series found to occur on this property, according to the Web Soil Survey, includes the Collington-Wist complex, Croom-Marr complex, Fallsington sandy loam, Grosstown gravelly silt loam, Marr-Dodon complex, Westphalia and Dodon soils, and Woodstown sandy loam. All of the soils are well to moderately well-drained except for the Fallsington sandy loam which is poorly drained and hydric. Marlboro clays are found in the vicinity of this property, and an evaluation area extends onto the southern portion of the property.

According to the Sensitive Species Protection Review Area GIS layer prepared by the Maryland Department of Natural Resources, Natural Heritage Program, rare, threatened, or endangered species habitat review areas are found to occur in the vicinity. Portions of the site have been identified as potential forest interior dwelling species (FIDS) habitat.

Croom Station Road is classified as a rural collector, and is a designated scenic and historic road that passes the frontage of this property. Croom Station Road is also a designated spine of the Star-Spangled Banner Scenic Byway and National Historic Trail.

The property is located in the Charles Branch watershed of the Patuxent River basin, within the designated Patuxent Rural Legacy Area, and within the Priority Preservation Area. According to the 2005 *Approved Countywide Green Infrastructure Plan*, limited areas of the site are shown as regulated areas, evaluation areas, or identified as network gaps. The site is located within the Rural and Agricultural Area of the Growth Policy Map and Environmental Strategy Area 3 (formerly the Rural Tier) of the Regulated Environmental Protection Areas Map as designated by the *Plan Prince George's 2035 Approved General Plan*. The property is located in Sustainable Growth Act Tier 4.

4. **Surrounding Uses:** The site is surrounded by properties in the R-O-S, O-S and R-A zones. To the south of the site are three residential lots. On the west side of Croom Station Road opposite this site, is large parcel of property owned by M-NCPPC containing the Pleasant Hills Historic Site (82A-002). To the north of the property are small farming operations interspersed with single-family residences. To the east of the site is the CSX Railway line and across the tracks are additional agricultural lands also owned by the Wyvill Family, interspersed with residential development.

5. **Previous Approvals:** The Environmental Planning Section previously reviewed an NRI for the subject property (NRI-069-05) which was approved on August 30, 2005, and is no longer valid. An updated NRI (NRI-069-05-01) was submitted with the current application and was approved on March 11, 2015.

On July 12, 2012, the Planning Board purchased a HARPP easement on the 75.22-acre property which is subject of the current application, from the Wyvill Family for the sum of \$635,687.53, which is recorded in the County Land Records at Liber 33850, Folio 217.

## COMPLIANCE WITH EVALUATION CRITERIA

6. **Requirements of the Forest Conservation Act (FCA) for Forest Mitigation Banking:** Section 5-1010.1 of the Annotated Code of Maryland states the following regarding “Forest Mitigation Banks:”

### **COMAR 08.19.03.01 Establishing Forest Mitigation Banks**

**.01 Ordinance for Local Program Forest Mitigation Banks—Local jurisdictions may develop procedures for establishing forest mitigation banks as part of its forest conservation program.**

Section 5-1607(d) identifies priority areas where mitigation banks can be located as follows:

**.02 Criteria For Evaluating Local Programs—Mitigation banks may be permitted only in priority areas as identified in 5-1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local jurisdiction.**

- (a) **Establish or enhance forest buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least 50 feet;**
- (b) **Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;**
- (c) **Establish or enhance forest buffers adjacent to critical habitats where appropriate;**
- (d) **Establish or enhance forested areas in 100-year floodplains;**
- (e) **Stabilize slopes of 25 percent or greater;**
- (f) **Stabilize slopes of 15 percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;**
- (g) **Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highway or utility rights-of-way; or**
- (h) **Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate.**

(i) **Use native plant materials for afforestation or reforestation, when appropriate.**

Additional guidance is provided in COMAR Section 08.19.03.01 Establishing Forest Mitigation Banks, which reinforces the above criteria for the establishment of off-site banking sites.

Procedures for establishing off-site mitigation banks and procedures were adopted in the most recent revision to the Woodland and Wildlife Habitat Conservation Ordinance. The above state required criteria for creation of off-site woodland conservation banks were incorporated into the WCO and the Woodland and Wildlife Habitat Conservation Technical Manual (ETM) as well as the following local evaluation criteria:

- a. The appropriateness of the property relative to applicable planning documents, including but not limited to:
  - (1) Subregion and Area Master Plans;
  - (2) Countywide Green Infrastructure Plan;
  - (3) Priority Preservation Area Plan;
  - (4) Master Plan of Transportation;
  - (5) Historic Sites and Districts Plan; and
  - (6) Land Preservation, Parks, and Recreation Plan; and,
  - (7) Lower Patuxent Rural Legacy Area
- b. The size of banking area proposed;
- c. The presence of locally regulated environmental features;
- d. Previous uses of the site;
- e. The existing or potential quality of woodlands on the site;
- f. Located adjacent to or in the vicinity of a local, state or federal parklands;
- g. Located in a state-designated Stronghold or Tier II watershed;
- h. The potential for assembling large contiguous blocks of woodlands based on development patterns and/or zoning;
- i. Potential for connecting the property to other properties protected by protective easement or public ownership;
- j. Located in a significant cultural landscape, such as the Mount Vernon Viewshed Area of Primary Concern, or along a designated Scenic Byway Corridor, such as the Star-Spangled Banner Scenic Byway; and,
- k. Potential for long-term retention as perpetual woodlands.

**Comment:** The proposed woodland bank was found to fulfill the criteria of the Forest Conservation Act (FCA) for the establishment of an off-site woodland conservation because it preserves enhanced forest buffers adjacent to stream, wetlands, and on steep slopes. A total of 52.18-acres of forest will be retained. Adjacent to the proposed property, on the west side of

Croom Station Road, is a 248-acre park which is part of the Charles Branch Stream Valley Park connecting to properties in public ownership or public protection in the Patuxent River Park. Protected forest areas are interconnected to adjacent woodlands to provide large contiguous blocks of woodlands as potential for Forest Interior Dwelling Species Habitat. The property is also located in the vicinity of a sensitive species habitat review area.

Croom Station Road is a special roadway, designated as a locally scenic and historic road as well as a “spine” (major link) in the Star-Spangled Banner Scenic Byway, a nationally significant cultural landscape.

The property is located in Green Infrastructure Network, the Priority Preservation Area, and the Lower Patuxent Rural Legacy Area. The site has an existing HARPP easement protecting the agricultural uses of the site and limited future development

**Recommended Finding:** The site is highly consistent with the state and local criteria for establishment of an off-site woodland conservation bank, and has high potential for long-term retention as perpetual woodlands.

7. **2010 Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance (WCO):** The current property is subject to the requirements of the Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the owner wishes to establish an off-site woodland conservation bank for developing properties. The approval of a TCP2 is a prerequisite for banking under Section 25-122(e)(2). In addition, Section 25-119(a)(8) of the WCO reads as follows:

- (8) **Proposed woodland conservation areas, either on-site, or off-site as part of a woodland conservation bank, shall be free of any previous encumbrance which is not consistent with the requirements of this Division, including but not limited to easements which specifically protect woodlands for another purpose, utility easements, approved TCPs for other development, deed restrictions, and declarations of covenants for woodland conservation banking, prior to encumbering the area to fulfill on-site woodland conservation requirements or as an off-site woodland conservation bank. Property that is subject to an agricultural preservation easement shall not be precluded from having a woodland conservation easement.**

The WCO indicates that a site is eligible to be a woodland conservation bank if it is not subject to a previous encumbrance which specifically protects woodlands on the site for another purpose, and further states that property subject to an agricultural preservation easement shall not be precluded from having a woodland conservation easement.

**Comment:** A HARPP easement was placed over the entire site for the protection of active agricultural practices, but does not disqualify the placement of a woodland conservation easement on the subject property for the purposes of off-site banking. A HARPP easement does not specifically protect the woodlands, but only reduces the development rights on the property. Placement of a woodland conservation easement and bank on the property to protect the woodlands is consistent with the HARPP easement if approval from the Prince George’s County Soil Conservation District Board of Supervisors and the Prince George’s County Planning Board are obtained.

8. **2010 Environmental Technical Manual**

**Part A. Woodland and Wildlife Habitat Conservation Technical Manual**—The submitted plan has been reviewed as Type 2 Tree Conservation Plan, TCP2-004-2015 for compliance with the requirements of the Environmental Technical Manual (ETM), Woodland and Wildlife Habitat Conservation Technical Manual, found in 7.3.1 Woodland Conservation Banks.

**Part B. Guidelines for the Preparation of a Natural Resources Inventory**—An NRI is a submittal requirement for a TCP2 for woodland conservation banking. Natural Resource Inventory NRI-069-05-01, was reviewed for compliance with the requirements of the Environmental Technical Manual, Part B. and approved on March 11, 2015.

**Comment:** The forest stand delineation (FSD) prepared for the site provides additional information about the on-site environmental features, which recommend the site as a woodland conservation bank. The site contains two forest stands. Stand ‘A’ consists of an immature stand of mixed hardwoods and is 33.11 acres in size. This stand has an excellent rating with respect to forest habitat values, and the overall retention potential is considered to be excellent because of the stand’s position relative to streams and slopes located on the site. Stand ‘B’ is a 19.07-acre stand of immature upland hardwoods. This stand has an excellent rating for forest habitat values, and the overall retention potential is also considered to be excellent. Several specimen trees were identified with the limits of this stand. Although some invasives were present, the amount was less than 13 percent of the stand, and the identified species will be shaded out as the canopy continues to close.

In a letter dated December 2, 2013, the Maryland Department of Natural Resources, Wildlife and Heritage Service, indicated that there are Sensitive Species Protection Review Areas in the vicinity of this property, but that the site does include Forest Interior Dwelling Species (FIDS) habitat.

The TCP2 plan has been reviewed and found to be complete, and is recommended for approval with no conditions.

**Recommended Findings:**

- a. The application complies with the requirements of the Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance.
- b. The application complies with the applicable requirements of the Environmental Technical Manual: Part A. Woodland and Wildlife Habitat Conservation Technical Manual; and Part B. Guidelines for the Preparation of an Intermediate Natural Resources Inventory.

9. **Subtitle 29, Division 9, Historic Agricultural Resource Preservation Program (CB-24-2007):**

In 2007, the Prince George’s County Council enacted legislation establishing the Historic Agricultural Resource Preservation Program (HARPP), an initiative to preserve agricultural areas and activities in the county. Section 29-127(b) states the purposes of the program as follows:

- (1) **Implement the policies of the Prince George's County General Plan and the Green Infrastructure Plan relating to the Rural Tier;**



- (2) **Preserve, protect and enhance properties that provide historic agricultural character, culture and practices;**
- (3) **Encourage others to preserve, protect and enhance properties that provide historic agricultural character, culture and practices;**
- (4) **Promote interest in and the study of historic properties and properties that provide historic agricultural character, culture and practices;**
- (5) **Maintain historic rural character and way of life through the limitation of non-agricultural uses and the preservation of scenic viewsheds, vistas and related natural resources.**

Section 29-131, Eligibility Criteria, reads as follows.

- (b) **A parcel shall not be eligible to participate in the program if the development rights have been extinguished by the donation or sale of an easement to any other party, or if the property is encumbered by a tree conservation easement or any other easement which would prevent the property from being developed.**

**Comment:** At the time of conveyance of the HARPP easement to the Planning Board, the site was not subject to any encumbrance which extinguished development rights, or by a woodland tree conservation easement. The additional protection of woodlands on this site provided under woodland conservation banking is highly consistent with the purposes of the HARPP program listed above.

- 10. **Regulations for the implementation of the Historic Agricultural Resource Preservation Program (HARPP) adopted by the Prince George's County Planning Board on January 10, 2008:** The Planning Board adopted regulations for the implementation of HARPP prepared by the Office of the General Counsel. The standard language of a HARPP easement states the following:

- 8(c) **The Grantor shall retain the right to do forest conservation on the Property in accordance with the woodland conservation policies of Prince George's County, Maryland and the State of Maryland (see generally Section 25-117 of the Prince George's County Code (the "County Woodland Conservation Ordinance") and Title 5, Subtitle 16, of the Natural Resources Article of the Annotated Code of Maryland; and Title 08, Subtitle 19, of the Code of Maryland Regulations (the "State Forest Conservation Act").**

A HARPP easement on the property was conveyed to the Planning Board on July 12, 2012 recorded in the County Land Records at Liber 33850, Folio 217, restricting future development of the site and limiting the property to agricultural uses and commercial uses related to agriculture. The HARPP easement language also includes the following language which provides guidance on an approval process for a TCP2 when a HARPP easement exists, as follows:

### 3. Prohibited Acts

- a. **Grantor shall not encumber or place any liens on the Parcel that further limits the use of the Property without the prior approval of the Planning Board; provided, however, that the Planning Board shall not approve any subsequent easement or other further encumbrance of a Parcel for a woodland, forest or other public conservation program unless the owner(s) has procured the prior written approval of such encumbrance by the Prince George's County Soil Conservation District. The Planning Board may refuse to consent to the placement of woodland conservation easements on such portions of the Property that are prime agricultural land intended to be preserved to maintain the agricultural character of the Property.**

This outlines specific findings and approvals that must be made by the Planning Board to place a further encumbrance over an existing HARPP easement.

An application for approval of a TCP2 for off-site banking was submitted which included the following standard requirements: an intermediate NRI; a specialized TCP2 for woodland conservation banking; a forest stewardship plan for the long-term management of the resource as perpetual woodland. Additional materials were also submitted to support the of a woodland conservation bank over the existing HARPP easement:

- a. A letter from the Prince George's County Soil Conservation District stating that they are in agreement with the proposal to establish an off-site woodland conservation bank.
- b. A copy of the approved farm plan, if applicable, which indicates the portions of the site which are designated for retained woodlands, where active agriculture will occur, and what type of agricultural activities are proposed.
- c. A title search of the property confirming that there are no other encumbrances on the property, except for the HARPP easement, which preclude establishment of an off-site woodland conservation bank.

**Comment:** A letter dated December 2, 2014, from Yates Clagett, Senior Agricultural Planner, Prince George's County Soil Conservation District, was received and reads in part as follows:

"The Prince George's Soil Conservation Board of Supervisors met on December 1, 2014 to discuss your proposal. In accordance with Section 3.c. of your Historic Agricultural Preservation Program easement, the board approved your proposal to establish a Woodland Conservation Bank. The board emphasized that their approval is conditioned on the premise that any Woodland Conservation Bank will be for existing forest only and that no cropland will be taken out of production."

A forest stewardship plan dated December 30, 2014, prepared by JPM Forestry Services, Inc., signed by John Markovich, Licensed Forester No. 153, was submitted with the application.

A copy of a conservation (farm) plan for the subject property prepared by a Maryland Department of Agriculture planner was submitted which indicated a planned rotation of row crops on the 23.04 acres of agricultural fields and open areas. A title search was submitted which confirmed that the sole encumbrance on the property is the HARPP easement granted to the Planning Board.

**Recommended Findings:**

- a. The application complies with the applicable requirements of Subtitle 29, Division 9, Historic Agricultural Resource Preservation Program.
- b. The application complies with the applicable language of a HARPP easement on the property, which was conveyed to the Planning Board on July 18, 2012. Approval has been granted by the Prince George's County Soil Conservation Board of Supervisors for establishment of an off-site woodland conservation bank. The current agricultural practice on the site is small crop rotation in addition to silviculture management of the woodlands under a forest stewardship plan prepared by a licensed forester.

11. **Referral Comments:**

- a. **Historic Preservation Section**—In an e-mail dated November 17, 2014, the Historic Preservation Section provided the following comments:

Due to its status as an easement property within HARPP, the proposed Type 2 Tree Conservation Plan TCP2-004-2015, Wyvill Property Woodland Conservation Bank, is subject to review by the Historic Preservation Section of The Maryland-National Capital Park and Planning Commission. The subject property is not located within a registered historic district. The nearest designated Prince George's County Historic Site is located 1283 feet to the northwest at Pleasant Hills (82A-002). The proposed woodland conservation bank will not have an impact on any historic sites, resources, or known archeological sites or resources in Prince George's County.

**Archeology**

There are no known archeological sites located on the subject property, and this project will not impact any county historic sites, resources, or archeological resources.

- b. **Subdivision Review Section**—The Subdivision Review Section determined that Parcel 52 was a legal parcel, and that there are no subdivision issues at this time.
- c. **Community Planning Division**—The Community Planning Division was conferred with and determined that the proposal was consistent with the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*, the 2012 *Adopted and Approved Priority Preservation Area Functional Master Plan*, and the 2005 *Approved Countywide Green Infrastructure*.
- d. **Department of Parks and Recreation (DPR)**—DPR had no comment on the proposed woodland conservation bank which is consistent with the Land Preservation, Parks, and Recreation Plan.

## RECOMMENDED FINDINGS AND CONDITIONS

The Environmental Planning Section recommends approval of Type 2 Tree Conservation Plan TCP2-004-2015, subject to the following findings, with no conditions:

### FINDINGS

1. The application is highly consistent with state and local criteria for establishment of an off-site woodland conservation bank, and has high potential for long-term retention as perpetual woodlands.
2. The application complies with the requirements of the 2010 *Prince George's County Woodland and Wildlife Habitat Conservation Ordinance*.
3. The application complies with the applicable requirements of the 2010 Environmental Technical Manual: Part A. Woodland and Wildlife Habitat Conservation Technical Manual; and Part B. Guidelines for the Preparation of a Natural Resources Inventory.
4. The application complies with the applicable requirements of Subtitle 29, Division 9, Historic Agricultural Resource Preservation Program.
5. The application complies with the applicable language of a HARPP easement on the property, which was conveyed to the Planning Board on July 18, 2012. Approval has been granted by the Prince George's County Soil Conservation Board of Supervisors for establishment of an off-site woodland conservation bank. The current agricultural practice on the site is small crop rotation in addition to silviculture management of the woodlands under a forest stewardship plan prepared by a licensed forester.