



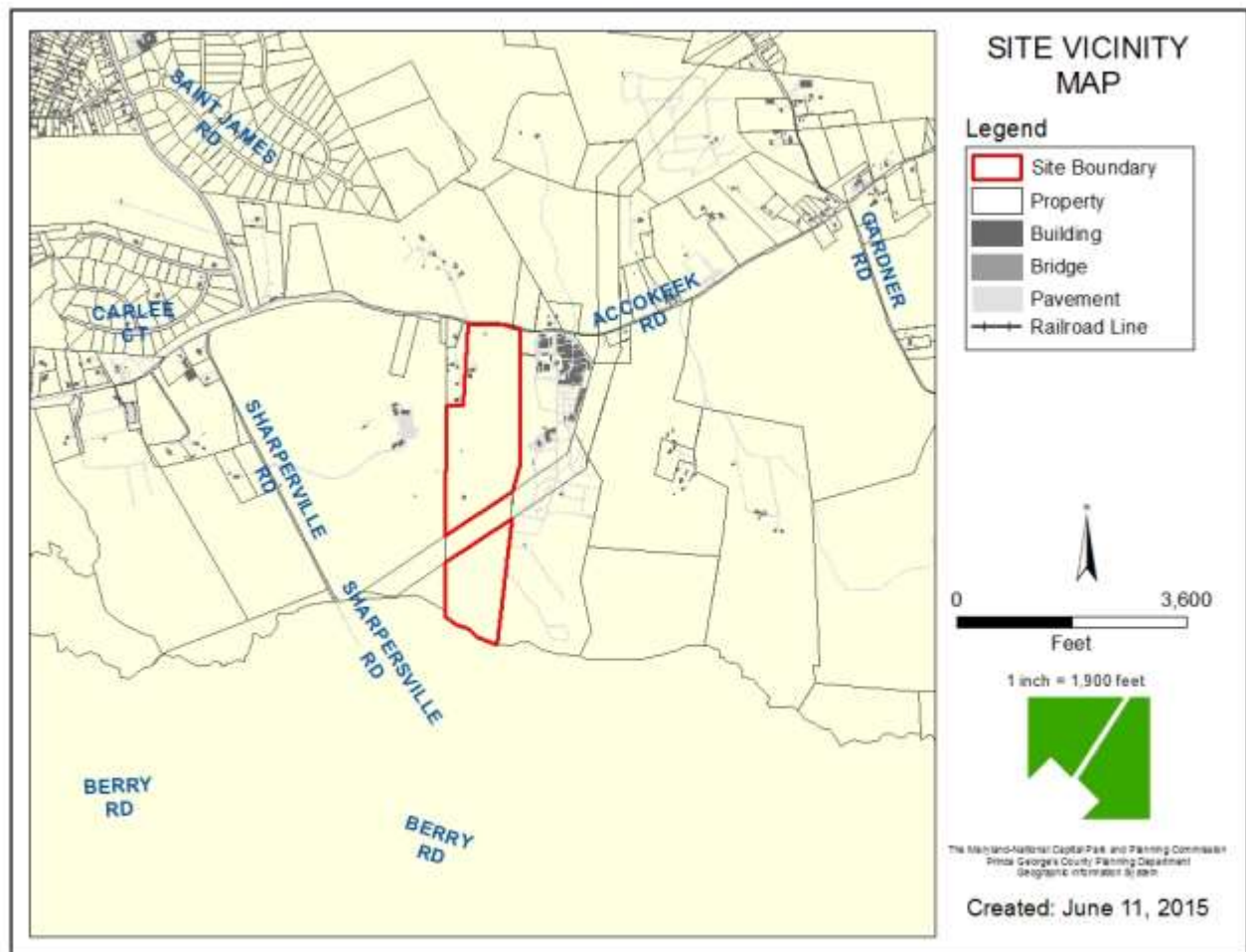
Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Type 2 Tree Conservation Plan TCP2-008-2015

| Application | General Data | |
|--|---------------------------------------|----------|
| Project Name: Denison Woodland Conservation Bank #2 Location: Located on the south side of Accokeek Road, approximately 0.75 miles east of Sharperville Road. Applicant/Address: John P. Denison 8911 Oxon Hill Road Oxon Hill, MD 20744 | Planning Board Hearing Date: | 06/25/15 |
| | Staff Report Date: | 06/05/15 |
| | Date Accepted: | 04/16/15 |
| | Planning Board Action Limit: | N/A |
| | Most Recent Revision: | N/A |
| | Plan Acreage: | 98.79 |
| | Zone: | R-A |
| | Dwelling Units: | N/A |
| | Square Footage of Proposed Structure: | N/A |
| | Planning Area: | 84 |
| | Council District: | 09 |
| | Municipality: | N/A |
| | 200-Scale Base Map: | 221SE03 |

| 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 |

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



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT PROPERTY: Type 2 Tree Conservation Plan TCP2-008-2015
 Denison Woodland Conservation Bank #2

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 Code of Maryland Regulations (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, of the Prince George's County Code;
- 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, of the Prince George's County Code;
- 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 98.79 acres and located in the Residential-Agricultural (R-A) Zone, consisting of two parcels. Perpetual protection of 22.66 acres of existing upland woodlands is proposed to be used as off-site woodland conservation banking credits.

2. **Location:** The subject site is located on the south side of Accokeek Road, approximately 0.75 miles east of Sharperville Road.

3. **Site Description:** This 98.79-acre property in the R-A Zone contains streams, wetlands, wetland buffers, and areas of steep and severe slopes. The site is not located within a stronghold watershed as established by the Maryland Department of Natural Resources (MDNR). 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 site does contain a Tier II waterbody as defined by COMAR26.08/02.04.

The property contains no wooded floodplain and 23.17 acres of upland woodland, including riparian buffers within the designated primary management area (PMA), cover approximately 30 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, include the Aquasco silt-loam, Beltsville silt loam, Croom gravelly sandy loam, Croom-Marr complex, Dodon fine sandy loam, Lenni and Quindocqua soils, Marr-Dodon complex, Potobac Issue complex, Udorthents, and Woodstown sandy loam. The soils are mostly in hydrologic Groups C or D, with a few soils classified as hydrologic Group B. Marlboro clays are not found in the vicinity of this property.

According to the Sensitive Species Protection Review Area (SSPRA) GIS layer prepared by the MDNR, Natural Heritage Program, rare, threatened, or endangered species habitat review areas are not found to occur in the vicinity. Portions of the site have been identified as potential forest interior dwelling species (FIDS) habitat.

Accokeek Road is classified as an arterial, and is a designated scenic and historic road that passes the frontage of this property. A portion of the site is also located in the Mount Vernon Viewshed Area of Primary Concern.

The property is located in the Mattawoman Creek watershed of the Potomac River basin, and within the Priority Preservation Area. According to the 2005 *Approved Countywide Green Infrastructure Plan* (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 areas 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* (Plan Prince George's 2035). The property is located in Sustainable Growth Act Tier 4.

4. **Surrounding Uses:** The site is surrounded by properties in the R-A Zone. To the south of the site is Mattawoman Creek and Charles County. On the west side of this site is a golf course, identified as the Southview Golf Course Subdivision. To the north and east of the property are small farming operations interspersed with single-family residences.
5. **Previous Approvals:** The Environmental Planning Section previously reviewed a Natural Resources Inventory (NRI-076-2015) for the subject property which was approved on April 24, 2015.

On March 9, 2012, the Planning Board purchased a HARPP easement on the 98.79-acre property, which is the subject of the current application, from the Potomac Farm LLC for the sum of \$854,810.30, which is recorded in the County Land Records at Liber 33460, Folio 037.

COMPLIANCE WITH EVALUATION CRITERIA

6. **Requirements of the Forest Conservation Act for Forest Mitigation Banking:**
Section 5-1010.1 of the Annotated Code of Maryland states the following regarding forest mitigation banks:
 - (b) **Procedures for establishment.** – A local jurisdiction may develop procedures for establishing forest mitigation banks as part of its forest conservation program.
 - (c) **Location.** – 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.

Section 5-1607(d) identifies priority areas where mitigation banks can be located. Additional guidance is provided in COMAR Section 08.19.03.02, Establishing Forest Mitigation Banks, which reinforces the priorities 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 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO). The required priorities and criteria for creation of off-site woodland conservation banks were incorporated into the WCO and the Environmental 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;

The proposed woodland bank was found to fulfill the criteria of the Forest Conservation Act 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 28.59 acres of upland and lowland forest will be retained. Adjacent to the proposed property, along the southern boundary, is the Mattawoman Creek Stream Valley Park connecting to properties in public ownership or public protection along the Mattawoman. Protected forest areas are interconnected to adjacent woodlands to provide large contiguous blocks of woodlands as potential FIDS habitat.

Croom Station Road is a locally-designated scenic and historic road located within the area of primary concern for a nationally significant cultural landscape.

The property is located in the Green Infrastructure Network and the Priority Preservation 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. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The 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 ordinance 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.

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. **Environmental Technical Manual:**

- **Part A, Woodland and Wildlife Habitat Conservation Technical Manual**—The submitted plan has been reviewed as 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**—A NRI is a submittal requirement for a TCP2 for woodland conservation banking. Natural Resources Inventory NRI-069-05-01 was reviewed for compliance with the requirements of the ETM, Part B, and was approved on March 11, 2015.

The forest stand delineation 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 four forest stands. Stand A consists of an immature stand of mixed upland hardwoods and is 2.66 acres in size. This stand has a medium rating with respect to forest habitat values, and the overall retention potential is considered to be moderate. Stand B is a 7.83-acre stand of immature upland hardwoods. This stand has a high rating for forest habitat values, and the overall retention potential is also considered to be high. Stand C is a 13.32-acre stand of immature upland hardwoods, with medium forest habitat value, and medium retention potential. Stand D is a 4.32-acre stand of immature lowland hardwood. Two specimen trees were identified within the limits of Stand D which will be retained. Although some invasives were present, the amount was less than 20 percent in all of the stands, and the identified species will be shaded out as the canopy continues to close.

In a letter dated January 21, 2015, MDDNR, Wildlife and Heritage Service, indicated that there are no sensitive species protection review areas in the vicinity of this property. 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 WCO.
 - b. The application complies with the applicable requirements of the ETM, 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:** 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) of the Historic Preservation Ordinance states the purposes of the program.

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.**

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):** A HARPP easement on the property was conveyed to the Planning Board on March 9, 2012, recorded in the County Land Records at Liber 33460, Folio 037, 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; and a forest stewardship plan for the long-term management of the resource as perpetual woodland. Additional materials were also submitted to support the 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.

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 May 8, 2015 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 consulted, which indicated a planned rotation of row crops on the agricultural fields and open areas of the site. 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**—Due to its status as an easement property within HARPP, the proposed TCP2-008-2015, Dennison Woodland Conservation Bank #2, is

subject to review by the Historic Preservation Section of The Maryland-National Capital Park and Planning Commission (M-NCPPC). The subject property is not located within a registered historic district. The nearest designated Prince George's County historic site are over a mile away from the subject property. There are no known archeological sites located on the subject property, and 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.

- 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, the Countywide Green Infrastructure Plan, the Priority Preservation Area Plan, and Plan Prince George's 2035.
- 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.

RECOMMENDATION

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

- 1. The application is highly consistence 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 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 Historic Agricultural Resources Preservation Program (HARPP) easement on the property, which was conveyed to the Prince George's County 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.