

PGCPB No. 2024-107

File No. 4-24002

## R E S O L U T I O N

WHEREAS, Rainy Day Investments, LLC is the owner of a 3.72-acre tract of land known as Part of Lot 12A, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned Residential, Rural (RR); and

WHEREAS, on April 30, 2024, Rainy Day Investments, LLC filed an application for approval of a Preliminary Plan of Subdivision for five lots and one parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-24002 for Bird Lawn was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission at a public hearing on October 17, 2024; and

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

WHEREAS, pursuant to Council Resolution CR-025-2024 and Section 24-1900 *et seq.* of the Prince George's County Subdivision Regulations, subdivision applications submitted and accepted as complete before April 1, 2026 may be reviewed and decided in accordance with the Subdivision Regulations, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022 (prior Subdivision Regulations); and

WHEREAS, the applicant has complied with the procedures required in order to proceed with development under the prior Subdivision Regulations contained in Section 24-1904 of the Prince George's County Subdivision Regulations; and

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

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

WHEREAS, at the October 17, 2024 public hearing, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-026-2024, APPROVED Variances to Section 25-122(b)(1)(G) and Section 25-121(c)(3), and APPROVED Preliminary Plan of Subdivision 4-24002, including a Variation from Section 24-123(a)(5), for five lots and one parcel, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised as follows:

- a. Label proposed Parcel A as an open space parcel to be conveyed to the homeowners association (HOA).
  - b. Add a general note indicating approval of variation from Section 24-123(a)(5) of the prior Prince George's County Subdivision Regulations, for Road A.
  - c. Revise General Note 21 to include the approval date for the stormwater management concept plan.
  - d. Revise General Note 24 to include that the mandatory dedication of parkland requirement is being addressed by providing a payment of a fee-in-lieu.
  - e. Revise General Note 27 to provide the Type 1 tree conservation plan number TCP1-026-2024.
2. Development of this site shall be in conformance with Stormwater Management Concept Plan 41535-2024-SDC, once approved, and any subsequent revisions.
3. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall:
  - a. Grant 10-foot-wide public utility easement along the proposed public right-of-way, as delineated on the approved preliminary plan of subdivision.
  - b. Include a note indicating the Prince George's County Planning Board's approval of a variation from Section 24-123(a)(5) of the prior Prince George's County Subdivision Regulations, in accordance with the approving resolution for Preliminary Plan of Subdivision 4-24002, for Road A not meeting the minimum public right-of-way width.
  - c. Dedicate the right-of-way along the property's street frontage on Allentown Road (C-718), consistent with the approved preliminary plan of subdivision.
  - d. Dedicate the public right-of-way for "Road A", consistent with the approved preliminary plan of subdivision.
4. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised as follows:
  - a. Add to the TCP1 approval block on the "00" approval line to the DRD column "4-24002."
  - b. Add a note under the woodland conservation worksheet:

"NOTE: This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on (ADD DATE): The removal of three specimen trees (Section 25-122(b)(1)(G), (Specimen Trees 1, 2, and 3)."

- c. Update the lot and parcel labeling to reflect Parcel A and Lots 1 through 5.
  - d. Correct General Note 10 to state that the plan is not grandfathered by CB-020-2024 and is subject to the Woodland Conservation Ordinance that came into effect July 1, 2024.
  - e. Have the revised plan signed and dated by the qualified professional who prepared it.
5. Prior to signature approval of the preliminary plan, an approved stormwater management concept plan and approval letter shall be submitted, showing a limit of disturbance consistent with the Type 1 tree conservation plan.
6. In accordance with the 2009 *Approved Countywide Master Plan of Transportation* and the 2006 *Approved Henson Creek-South Potomac Master Plan*, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following facilities, and the facilities shall be shown on the permit site plan:
- a. Marked continental-style crosswalks and Americans with Disabilities Act curb ramps at the intersection of Road A and Allentown Road.
7. Prior to approval of a final plat, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association has been established for the subdivision. The draft covenants shall be submitted to the Subdivision Section of the Development Review Division of the Prince George's County Planning Department, to ensure that the rights of The Maryland-National Capital Park and Planning Commission, Prince George's County Planning Board, are included. The Book/page of the declaration of covenants shall be noted on the final plat, prior to recordation.
8. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey land to the homeowners association (HOA), as identified on the approved preliminary plan of subdivision. Land to be conveyed shall be subject to the following:
- a. A copy of the recorded deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division of the Prince George's County Planning Department.
  - b. All waste matter of any kind shall be removed from the property, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
  - c. The conveyed land shall not suffer the disposition of construction materials or soil filling, other than the placement of fill material associated with permitted grading operations that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.

- d. Any disturbance of land to be conveyed to the HOA shall be in accordance with an approved site plan and tree conservation plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
  - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to the HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division of the Prince George's County Planning Department.
  - f. The Prince George's County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.
9. Prior to approval of the final plat of subdivision, in accordance with Section 24-135(a) of the prior Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall provide a fee-in-lieu payment for mandatory parkland dedication.
10. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan, TCP1-026-2024. The following note shall be placed on the final plat of subdivision:

"This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan TCP1-026-2024, or most recent revision, or as modified by the Type 2 tree conservation plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved tree conservation plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved tree conservation plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

- 1. The subdivision, as modified with conditions, meets the applicable legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
- 2. **Background**—The subject property consists of a 3.72-acre tract of land known as Part of Lot 12A, described by deed in Book 48497 page 248 of the Prince George's County Land Records. The property is subject to the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* (master plan).

This preliminary plan of subdivision (PPS) is for five lots and one parcel for development of five single-family detached residential dwelling units. The property is currently developed with three single-family detached residential dwellings; two of which are to be razed, and one which is to remain.

The property is in the Residential, Rural (RR) Zone. However, this PPS was submitted for review under the Prince George's County Zoning Ordinance and Prince George's County Subdivision Regulations in effect prior to April 1, 2022 ("prior Zoning Ordinance" and "prior Subdivision Regulations"), pursuant to Section 24-1903(a) of the Subdivision Regulations. Under the prior Zoning Ordinance, the site was in the Rural Residential (R-R) Zone which is used for the analysis contained herein.

On March 26, 2024, the Prince George's County Council adopted Council Resolution CR-025-2024, which approved an extension of the time for applications to be approved and considered under the prior Subdivision Regulations for an additional two years, from April 1, 2024, to April 1, 2026. Council Resolution CR-025-2024 remains in effect, and the subject PPS was accepted for review on April 30, 2024.

The subject PPS qualifies for review under the prior Zoning Ordinance and prior Subdivision Regulations because it meets the requirements of Section 24-1903(a) of the current Subdivision Regulations. In accordance with Section 24-1904(a), a pre-application conference was held on January 26, 2024. In accordance with Section 24-1904(b), the applicant provided a statement of justification on April 15, 2024, explaining why they were electing to use the prior regulations. In accordance with Section 24-1904(c) of the Subdivision Regulations, this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2024-002.

The applicant requested a variation from Section 24-123(a)(5) of the prior Subdivision Regulations, for dedication of primary road right-of-way (ROW) less than 50 feet in width. This request is discussed further in the Transportation finding of this resolution.

The applicant filed a request for a variance to Section 25-122(b)(1)(G) of the 2024 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO), for the removal of three specimen trees. This request is discussed further in the Environmental finding of this resolution.

The applicant also filed a request for a variance to Section 25-121(c)(3) of the WCO, for not providing the afforestation threshold on-site. This request is discussed further in the Environmental finding of this resolution.

3. **Setting**—The site is located on Tax Map 115, Grid A-1. The site is within Planning Area 76B. The subject property is located on the east side of Allentown Road, approximately 1,300 feet south of its intersection with Tucker Road. The subject property is bounded to the north, west, and south by single-family detached residential development in the RR Zone (prior R-R Zone). The property is bound to the east by the public ROW of Allentown Road, with single-family detached residential development in the RR Zone and commercial development in the Commercial, General and Office (CGO) Zone beyond (prior Commercial Shopping Center Zone).

The property is flanked by a certified nonconforming use (vehicle salvage yard) in the northeast corner in the Commercial, Service Zone (prior Commercial Miscellaneous Zone). In the southeast corner, the property is bound by another certified nonconforming use (vehicle repair shop and vehicle parts store) in the RR Zone (prior R-R Zone).

4. **Development Data Summary**—The following information relates to the subject PPS and the evaluated development.

	EXISTING	EVALUATED
Zones	RR	R-R
Use(s)	Single-family Residential	Single-family Residential
Acreage	3.72	3.72
Lots	0	5
Parcels	1	1
Dwelling Units	3	5
Gross Floor Area (nonresidential)	0	0
Subtitle 25 Variances	No	Yes Section 25-122(b)(1)(G) Section 25-121(c)(3)
Variation	No	Yes Section 24-123(a)(5)

The subject PPS, 4-24002, was accepted for review on April 30, 2024. Pursuant to Section 24-119(d)(2) of the prior Prince George’s County Subdivision Regulations, the PPS was reviewed by the Subdivision and Development Review Committee (SDRC), which held a meeting on May 10, 2024, at which comments were provided to the applicant. The requested variation from Section 24-123(a)(5) of the prior Subdivision Regulations was received on April 30, 2024, and was also reviewed at the SDRC meeting on May 10, 2024. Revised plans and information were received on May 23, 2024, August 8, 2024, August 23, 2024, and August 29, 2024, which were used for the analysis contained herein.

5. **Previous Approvals**—There are no prior development approvals associated with the subject property. Lot 12A was recorded in the Prince George’s County Land Records in Plat Book 4, Plat 16, dated 1934. The subject property was created in its current configuration and acreage through subdivision, by deed of Lot 12A, prior to January 1, 1982. The subject property exists as a legal deed parcel and is described by deed recorded in Book 48497 page 248 in the aforementioned Land Records. The property is currently developed with three single-family detached residential dwellings; two of which are to be razed, and one which is to remain.
6. **Community Planning**—The 2014 *Plan Prince George’s 2035 Approved General Plan* (Plan 2035) and conformance with the master plan are evaluated, as follows:

### **Plan 2035**

Plan 2035 places this subject site in the Established Communities Growth Policy Area. Plan 2035 classifies Established Communities as existing residential neighborhoods and commercial areas served by public water and sewer outside of the Regional Transit Districts and Local Centers. Established Communities are most appropriate for “context sensitive infill and low- to medium-density development” (page 20). Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met” (page 20).

### **Master Plan**

Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, a PPS and final plat shall conform to the master plan, including maps and text, unless events have occurred to render the relevant recommendations within the plan no longer appropriate, no longer applicable, or the Prince George’s County District Council has not imposed the recommended zoning. The master plan recommends residential, low-density land uses on the subject property. Pursuant to Section 24-121(a)(5), this PPS conforms to the master plan, as the evaluated use of the property conforms to the recommended land use. Other relevant recommended goals, objectives, and guidelines of the master plan that affect the subject property are discussed below and throughout this resolution:

### **Development Pattern Element Chapter/Developing Tier Section (page 22)**

#### **Policy 1: Preserve and enhance existing suburban residential neighborhoods.**

##### ***Strategies***

- **Ensure that the design of new development in suburban residential areas maintains or enhances the character of the existing community.**
- **Retain low-density residential land use classifications for undeveloped parcels in established single-family residential neighborhoods.**
- **Encourage a wide variety of single-family designs and lot sizes.**
- **Design new development to create a continuous network of streets, sidewalks and trails to connect neighborhoods, open space, and major areas of activity.**

### **Community Character: Urban Design**

#### **Policy 2: Encourage traditional neighborhood design. (page 97)**

##### ***Strategies***

- **Ensure that the design of infill and new development is attractive and maintains or enhances the character of the existing communities.**

- **Develop compact single-family neighborhoods with connected street patterns rather than disconnected networks of culs-de-sac to enhance connectivity with activity centers, recreation and open space opportunities, and other neighborhoods.**
- **Provide a comprehensive network of well-lit (where appropriate) sidewalks, trails, bikeways, and paths that encourage walking and biking and contribute to the walkability of the master planning area.**
- **Ensure that sufficient public and private open spaces are provided to serve the needs of both current and future residents. If possible, locate homes within one-quarter mile (a five-minute walk) of open space and/or recreation facilities to increase accessibility to such amenities.**

This infill development consisting of five single-family detached homes will maintain the character of surrounding single-family residential neighborhoods. The applicant is encouraged to use a variety of building materials and architectural design techniques in the development of the homes, to complement the existing community character. The PPS evaluates lots which will accommodate low-density residential development and includes lots that are of varied size and configuration, which is in keeping with the surrounding established neighborhood. The PPS includes a public road (Road A) for access to the residential lots. Due to the shape of the property, a cul-de-sac design is shown, matching adjacent subdivisions. A continuous sidewalk is included along Road A, connecting to an existing sidewalk along Allentown Road. This is consistent with the master plan recommendation to provide a continuous network of streets, sidewalks, and trails. Although the new subdivision is not located within 0.25-mile of parkland, the recreational amenities at the Tayac Elementary School and Isaac J. Gourdine Middle School are accessible within 0.25-mile of the property to the south along Allentown Road, and Oaklawn Park is accessible within 0.35-mile to the east.

### **Zoning**

The master plan's associated sectional map amendment retained the subject property in the prior R-R Zone. On November 29, 2021, the District Council approved Prince George's County Council Resolution CR-136-2021, the Countywide Map Amendment, which reclassified the subject property from the R-R Zone to the RR Zone, effective April 1, 2022. However, this PPS was reviewed pursuant to the prior R-R zoning.

7. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan, or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. An unapproved SWM Concept Plan (41535-2024-SDC) was submitted with the PPS for this development. The SWM concept plan proposes to use the three micro-bioretention facilities and two underground SWM attenuation structures. This plan is reflective of the PPS layout and will be further reviewed for approval by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE). Submittal of an approved SWM concept letter and plan will



be required prior to signature approval of the Type 1 tree conservation plan (TCP1). No further information pertaining to SWM is required at this time.

Development of the site, in conformance with the SWM concept plan and any subsequent revisions, will ensure that no on-site or downstream flooding occurs. Therefore, this PPS satisfies the requirements of Section 24-130 of the prior Subdivision Regulations.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of Plan 2035, the master plan, the 2022 *Land Preservation, Parks and Recreation Plan for Prince George's County*, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, and the prior Subdivision Regulations, as they pertain to public parks and recreational facilities.

The master plan identifies several recommendations for development of parks and recreation (pages 82–83). The development is in alignment with the master plan's goals and has no impact on the master plan park and open space recommendations.

Existing parks and recreation amenities serving the subject property include the Tucker Road Athletic Complex, located approximately 1.5 miles northwest from the subject property, improved with a lighted softball diamond, a football/soccer field combination field, full basketball courts, outdoor tennis courts, a picnic area, a playfield, a playground, a lake/pond recreation, and fitness stations. Webster Lane Park is located approximately 1.3 miles northeast from the subject property and provides a softball diamond, a football/soccer combination field, a picnic area, a playground, and trails. Existing trails in the area include the Henson Creek Stream Valley Park hiker/biker trail.

Sections 24-134 and 24-135 of the prior Subdivision Regulations, which relate to mandatory dedication of parkland, provide for the dedication of land, the payment of a fee-in-lieu, and/or the provision of recreational facilities to meet the park and recreation needs of the residents of the subdivision. Based on the permissible density of 2.17 dwelling units per acre of development, five percent of the net residential lot area, 0.14-acre, could be required to be dedicated to The Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC. The 0.14-acre of dedicated land would not be sufficient to provide for the types of active recreational activities that are needed. As such, the applicant shall provide a fee-in-lieu of parkland dedication. Per Section 24-135, the Prince George's County Planning Board may approve the payment of fees and the provision of private on-site recreational facilities, in place of parkland dedication.

The payment of a fee-in-lieu of mandatory dedication of parkland for five lots in Park Service Area 8 will meet the requirements of Sections 24-134 and 24-135. The PPS will be in conformance with applicable plans and the requirements of prior Subtitle 24, as they pertain to parks and recreation facilities.

9. **Transportation**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the master plan, and the prior Subdivision Regulations to provide the appropriate transportation facilities.

**Master Plan Right-of-Way**

The subject property has frontage via a driveway on Allentown Road. Allentown Road is a master-planned collector road with four lanes and an ultimate ROW width of 80 feet. The PPS identifies that the property's frontage is 32 feet from the centerline of Allentown Road. An additional 400 square feet (0.0092 acre) will be dedicated to meet the 40-foot from centerline master plan width. The ROW dedication will be required to be shown on the final plat.

**Master Plan Pedestrian and Bike Facilities**

The MPOT recommends the following master planned facilities:

- Planned Bicycle Lane: Allentown Road

The Complete Streets element of the MPOT reinforces the need for multimodal transportation and includes the following policies regarding the accommodation of pedestrians and bicyclists (MPOT, pages 9–10):

**Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.**

**Policy 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.**

**Policy 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.**

In addition, the master plan also recommends the following policies and strategies:

**Roadway Element**

**Policy 1: Support the development level recommended by the Henson Creek-South Potomac Master Plan and Sectional Map Amendment with a transportation system that reflects the policy service levels in the 2002 General Plan, while achieving efficient access to residential, commercial, and employment areas with improvements to existing roadways and new roadways, and minimizing dislocation and disruption resulting from the implementation of these recommendations (page 67).**

*Strategies*

- **Maintain and improve collectors by current and future development.**

**The following facilities are recommended to be maintained at their current width—either two lanes or four lanes—with frontage and safety improvements as deemed necessary.**

- **C-718, Allentown Road between Tucker Road and Old Fort Road North. (page 68)**

Allentown Road, along the subject property's frontage, is currently improved as a four-lane road with sidewalks on both sides of the road. Due to the subject property's limited frontage onto Allentown Road, the PPS does not include any frontage improvements to Allentown Road.

**Bicycle, Pedestrian, Trails Element**

**Policy 1: Incorporate appropriate pedestrian, bicycle, and transit-oriented design and transit-supporting design features in all new development within centers and Corridor Nodes.**

*Strategies*

- **Provide continuous sidewalks and designated bike lanes along Tucker Road, Bock Road, Brinkley Road, Livingston Road, Temple Hill Road, Allentown Road, Oxon Hill Road, Fort Foote Road, Fort Washington Road, and Palmer Road. In areas of high pedestrian traffic, wide sidewalks may be appropriate. (page 75)**

**Policy 3: Provide adequate pedestrian and bicycle linkages to schools, parks, and recreation areas, commercial areas, and employment centers.**

Due to the limited frontage along Allentown Road, bicycle lanes are not required along the road frontage. The frontage is only wide enough to serve as the access point to the site and would not provide or contribute to a bicycle connection at this time. A sidewalk shall be provided along public Road A to provide a pedestrian connection to the existing sidewalk along Allentown Road.

**Variation from Section 24-123(a)(5)**

Section 24-123(a)(5) sets forth minimum ROW widths for public streets proposed in a PPS, as follows:

- (5) **Arterial highways shall have a minimum right-of-way width of one hundred and twenty (120) feet; collector streets, a minimum right-of-way width of eighty (80) feet; and parkways, such right-of-way width as may be**

**designated by the Planning Board. The width of secondary subdivision streets shall be not less than fifty (50) feet and the width of primary subdivision streets not less than sixty (60) feet.**

The applicant filed a variation request from Section 24-123(a)(5), for public ROW for Road A as a secondary subdivision street. The PPS shows a minimum ROW width of 49.5 feet, for a length of 175 feet within the subject property. Section 24-113(a) sets forth the required findings for approval of variation requests, as follows:

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

The subject property only fronts on one road, (Allentown Road), from which access may be provided. The current configuration of the property left the property with only 50 feet of frontage on Allentown Road. The applicant will dedicate this strip as a secondary subdivision street to provide access to the five lots. However, as the strip extends from Allentown Road between the subject property and two adjoining properties, it narrows slightly to a width of 49 feet 6 inches, for a length of 175 feet. The applicant contended that the 6-inch discrepancy between the ROW width required, and the ROW width provided poses a practical difficulty, as it is *de minimis* and does not impact the ability to construct the roadway or have it adequately serve the five lots. Based upon the above, the applicant sought a variation to not provide the full 50-foot-wide ROW width for a secondary subdivision street required by Section 24-123(a)(5).

A specific review of each of the criteria which the Planning Board must address follow:

- (1) **The granting of the variation will not be detrimental to the public safety, health, welfare, or injurious to other property;**

Approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Currently, the frontage of the property extends 50 feet along Allentown Road. However, the width of the internal roadway

which will serve the property reduces to 49.5 feet (between existing commercial properties) for a length of 175 feet and widens to 50 feet for the remaining portion of the roadway into the development. The boundaries of the subject property create unique circumstances. However, Road A can still be constructed to accommodate traffic and pedestrians without a detrimental impact on other properties. Reduction of just 0.5 feet, or 6 inches, in the road ROW will not be noticeable and will not impede construction to full-width, to safely accommodate traffic and provide a sidewalk to safely accommodate pedestrians. Not conforming to the strict requirements of Section 24-123(a)(5) of the prior Subdivision Regulations will not be detrimental to the public safety, health, welfare or injurious to other property.

**(2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The subject property is the result of subdivision by deed of a larger tract of land (Lot 12A) which also created the two properties abutting to the northeast and southeast (both called Part of Lot 12A and described in Book 6362 page 96 and Book 36022 page 22). This prior subdivision resulted in the subject property with only 50 feet of frontage on Allentown Road and a 50-foot-wide strip of land leading from this frontage to the rear portion of the property. The applicant will dedicate this strip as a secondary subdivision public street, to provide access to the lots. However, as the strip extends from Allentown Road between the adjoining properties, the strip narrows slightly such that it is less than 50 feet in width. At its intersection with Allentown Road, the arc of the road is exactly 50 feet, but as the road leads into the property, it narrows to 49.5 feet at its narrowest point. The reduced ROW width extends approximately 175 feet into the property until the property widens and a full 50 feet ROW can be provided. The intention of prior subdivisions may well have been to retain a full 50 feet between the two adjoining properties, but with modern surveying techniques, the actual width is slightly less. These conditions, including the unusual configuration of the property, are unique to the property and not a situation or configuration generally shared by other properties.

**(3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and**

The only regulation applicable to the variation being discussed is Section 24-123(a)(5). The approval of a variation is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. DPIE provided a memorandum dated August 20, 2024 (Deguzman to Gupta), which noted the fact that a certain section of Road A will have a nonstandard ROW width. DPIE, however, did not express any issue with the nonstandard ROW width or that the applicant will be required to provide the required 50-foot-wide ROW width. Therefore, approval of this variation will not constitute a violation of any other applicable law, ordinance, or regulation.

**(4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if strict letter of these regulations is carried out;**

The property has unique existing physical surroundings, when compared to abutting properties, and is located within an area with an established framework of development and roadways. The property is surrounded by residential development except to the east, towards Allentown Road. The adjoining properties to the east were divided out of parent Lot 12A by deed, thus leaving a 50-foot-wide strip of land as the sole access to a public road for the subject property. As stated previously, prior errors in boundary survey and description have created the current physical condition of the property. Adherence to the requirements of Section 24-123(a)(5) in this case would result in the applicant not being able to subdivide the property. A private ROW with a minimum width of 22 feet is permitted in the prior R-R Zone, pursuant to Section 24-128(a), but lots served by this ROW must be a minimum of 2 acres. With only 3.8 acres of total land area, even two lots would not be permitted. This would result in a particular hardship to the applicant, as they would be incapable of developing the property with its intended use, if the strict regulations were carried out.

**(5) In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units**

**accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the Prince George's County Code.**

The site is not located in any of the listed zones. Furthermore, this PPS does not include multifamily development. Therefore, this finding does not apply.

The purposes of the prior Subdivision Regulations and Section 9-206 of the Environment Article are served to a greater extent by the alternative proposal; and this request will not have the effect of nullifying the intent and purpose of this Subtitle, given the findings provided herein, to ensure protection from adverse transportation impacts. Based on the preceding findings, the variation from Section 24-123(a)(5) for Road A, for ROW width of a secondary subdivision street to be less than 50 feet, is approved.

#### **Access and Circulation**

The PPS includes a single, full-movement access point along Allentown Road. The PPS also includes an internal sidewalk along the perimeter of Road A that will connect to the sidewalk along Allentown Road. All points of access are confined to the site, thereby ensuring no cut-through traffic will take place. The applicant shall install a crosswalk and Americans with Disabilities Act (ADA)-compliant curb ramps across the site access point. Vehicular access and circulation for the development will be sufficient.

Based on the findings presented above, multimodal transportation facilities will exist to serve the subdivision, as required under prior Subtitle 24 of the Prince George's County Code, and will conform to the MPOT and master plan.

10. **Public Facilities**—This PPS was reviewed for conformance to the master plan, in accordance with Section 24-121(a)(5) and 24-122(b) of the prior Subdivision Regulations. The master plan includes goals and policies for the provision of public facilities (pages 79 and 80). However, the project will not impede the achievement of specific public facility improvements. There are no master-planned police, fire and emergency medical service facilities, public schools, parks, or libraries recommended on the subject property.

This PPS is subject to an approved Certificate of Adequacy, ADQ-2024-002. The certificate of adequacy process ensures that infrastructure necessary to support a proposed development is built at the same time as, or prior to, the proposed development. Pursuant to applicable tests and standards, the Prince George's County Planning Director determined that public facilities will be adequate to serve the subject development, as reflected in the approved ADQ.

The subject property is located in Planning Area 76B, which is known as Henson Creek. The 2024–2029 *Fiscal Year Approved Capital Improvement Program* budget does identify two new facilities proposed for construction - Police Department District IV Police Station located at 6501 Felker Avenue (3.50.0007), and Oxon Hill Fire/EMS Station located at 6501 Felker Avenue (3.51.0019). However, these facilities are not proposed on the subject site.

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades, renovations to existing facilities, and construction of new facilities; however, none of its recommendations affect the subject site.

Section 24-122.01(b)(1) of the prior 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 PPS or final plat approval. The 2018 *Water and Sewer Plan* placed this property in water and sewer Category 3, Community System. Category 3 comprises all developed land (platted or built) on public water and sewer, and undeveloped land with a valid PPS approved for public water and sewer. The property is within Tier 1 of the Sustainable Growth Act, which includes those properties served by public sewerage systems.

11. **Public Utility Easement**—In accordance with Section 24-122(a), when utility easements are required by a public company, the subdivider shall include the following statement in the dedication documents recorded on the final plat:

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

The standard requirement for public utility easements (PUEs) is a minimum of 10 feet wide along both sides of all public rights-of-way. The site abuts Allentown Road to the east, from which a public ROW (Road A) will extend for access to the lots. All the required PUEs located on the subject property are shown on the PPS.

12. **Historic**—The master plan contains goals and policies related to historic preservation (pages 99 through 102) and these are not specific to the subject site. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites, indicates the probability of archeological sites within the subject property is low. A Phase I archeology survey is not required. The subject property does not contain and is not adjacent to any designated Prince George’s County historic sites or resources.
13. **Environmental**—The following applications and associated plans were previously reviewed for the subject site:

Review Case	Associated Tree Conservation Plan	Authority	Status	Action Date	Resolution Number
NRI-017-2024	N/A	Staff	Approved	3/5/2024	N/A
N/A	S-024-2024	Staff	Approved	2/21/2024	N/A
4-24002	TCP1-026-2024	Planning Board	Approved	10/17/2024	2024-107



### **Applicable Woodland Conservation Ordinance**

The project is subject to the 2024 Woodland and Wildlife Habitat Conservation Ordinance (WCO) that came into effect July 1, 2024, because the development is subject to a new PPS, with a TCP1 that was accepted after July 1, 2024. The project is also subject to the current environmental regulations contained in prior Subtitles 24 and 27.

### **Site Description**

From a review of available information, and as shown on the approved natural resources inventory (NRI), no regulated environmental features (REF) are located on the overall site such as primary management areas (PMA). The site does not contain any Wetlands of Special State Concern, as mapped by the Maryland Department of Natural Resources (DNR). The County's Department of the Environment watershed map shows the site is within the Hunter Mill watershed and flows to the Potomac River and is also within the Tinkers Creek watershed, which flows into Piscataway Creek basin. The site fronts on Allentown Road, which is identified as a master-planned collector roadway and a historic road. The site is fairly flat, sloping towards Allentown Road. DNR only identifies the narrow existing entrance road area as being within a stronghold watershed area and Tier II catchment area. According to available information from the DNR's Natural Heritage Program, no rare, threatened, and endangered species are known on-site or on adjacent properties.

### **Plan 2035**

The site is located within the Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map, as designated by Plan 2035, and within the Established Communities of the General Plan Growth Policy in Plan 2035.

### **Environmental Conformance with Applicable Plans**

#### **Master Plan**

The master plan contains environmental related policies and strategies that are applicable to the subject PPS. The specific language from the master plan is shown in **bold**, and the plain text provides comments on plan conformance.

**Policy 1: Protect, preserve, and enhance the identified green infrastructure network within the Henson Creek planning area (page 61).**

#### ***Strategies:***

- **Use designated green infrastructure network to identify opportunities for environmental preservation and restoration during the review of land development proposals.**

The central portion of the subject property is comprised of mapped evaluation areas of the Countywide Green Infrastructure Plan of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (GI Plan). This property and the adjacent developed residential lots contain scattered trees; however, there are no woodlands or associated REF in the

vicinity of the site. Based on the limited size of the overall site, and that this is an isolated tract with development surrounding on all sides, the applicant requested using off-site woodland credits to meet the woodland conservation requirement. For at least the past two decades, this site has been surrounded by residential development and no unique habitat is located on or in the vicinity of the site, as confirmed by the approved NRI.

**Policy 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded (page 64).**

***Strategies:***

- **Restore stream and wetland buffers to the fullest extent possible during the land development process.**

The approved NRI shows no REF, PMA, or woodlands are within or in the vicinity of the site.

The SWM concept design is required to be reviewed and approved by DPIE to address surface water runoff issues in accordance with Subtitle 32, Water Resources Protection and Grading Code. This requires that environmental site design (ESD) be implemented to the maximum extent practicable. An unapproved SWM Concept Plan 41535-2024-SDC was submitted for review. The SWM concept plan proposes to use the three micro-bioretenion facilities and two SWM attenuation structures to ensure that area waterways are not degraded by this development.

**Policy 3: Reduce Overall energy consumption and implement more environmentally sensitive building techniques (page 64).**

As a PPS does not approve any structures, the subject PPS does not show any environmentally sensitive building techniques. Use of environmentally sensitive building techniques is encouraged.

**Policy 4: Reduce light pollution and intrusion into rural and environmentally sensitive areas (page 64).**

The subject property contains no on-site woodlands or REF. The adjacent properties consist of existing residential lots and Allentown Road. There are no rural or environmentally sensitive areas adjacent to the site. The proposed lighting details will be addressed at the time of permit review.

**Policy 5: Reduce noise impacts to meet State of Maryland noise standards (page 64).**

The site is adjacent to Allentown Road to the east, and residential lots to the north, south, and west. Allentown Road is identified as a collector roadway and not considered a noise generator. A noise study is not required because Allentown Road is not classified as an arterial roadway or greater. The PPS is for a five-lot single-family detached residential subdivision, which will not increase the volume of noise to the surrounding area. The standard regulatory requirement listed in the above policy will be addressed at the time of permitting.

**2017 Green Infrastructure Plan**

The Countywide Green Infrastructure Plan was approved on March 17, 2017, with the adoption of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017). According to the GI Plan, this site contains evaluation areas.

The following policies and strategies are applicable to the subject PPS. The text in **bold** is the text from the GI Plan and the plain text provides comments on plan conformance.

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

*Strategies*

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

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

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

The subject site does not contain on-site woodlands or REF. This site is surrounded on all sides by developed residential lots and Allentown Road. There are no rural or environmentally sensitive species project review areas or special conservation areas adjacent to the PPS area. The TCP1 shows the use of off-site woodland credits to meet the woodland conservation requirement.

Due to the size of the lots (less than 1.0 acre), Section 25-122(b)(1)(F) prohibits afforestation on the lots.

Stormwater management will be reviewed by DPIE, and sediment and erosion control measures will be reviewed by the Prince George's County Soil Conservation District (PGSCD). These reviews require that ESD be implemented to the maximum extent practicable, and that all stormwater will be contained and treated on-site, to protect off-site REF.

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

**2.4 Identify Network Gaps when reviewing land development applications and determine the best method to bridge the gap: preservation of existing forests, vegetation, and/or landscape features, and/or planting of a new corridor with reforestation, landscaping and/or street trees.**

**2.5 Continue to require mitigation during the development review process for impacts to regulated environmental features, with preference given to locations on-site, within the same watershed as the development creating the impact, and within the green infrastructure network.**

The subject site does not contain network gap areas, woodlands, or REF. It is surrounded on all sides by developed residential lots and contains only scattered trees. Prior to filing for permit review, the permit package must include an approved Type 2 tree conservation plan (TCP2), which will address the location for off-site mitigation opportunities.

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

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

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

The approved NRI shows no on-site woodlands or REF. Therefore, no wildlife corridors are present, and the new road is not subject to this policy. No fragmentation of REF by transportation systems is included with this PPS.

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

No new trails are included with this PPS.

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

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

The subject property contains no woodland or REF areas. The TCP1 includes off-site woodland credits to meet the woodland conservation requirement. The property does not contain special conservation areas.

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

***Strategies***

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

An unapproved SWM concept plan was submitted with this PPS that shows use of micro-bioretenment facilities and SWM attenuation structures to meet the current requirements of ESD to the maximum extent practicable. All stormwater will be contained and treated on-site to protect the off-site REF.

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

***General Strategies for Increasing Forest and Tree Canopy Coverage***

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

The property contains no woodland areas and is surrounded on all sides by residential development. The TCP1 includes the use of off-site woodland credits to meet the woodland conservation requirement. The landscaping materials and specifications and tree canopy requirement details will be addressed at the time of permit review.

***Forest Canopy Strategies***

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

***Tree Canopy Strategies***

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

The subject property contains no existing woodland areas. The TCP1 shows the afforestation requirement fulfilled by off-site with woodland credits. The planting of native species on-site is required by the Landscape Manual, which can count toward the tree canopy coverage requirement for the development. Tree canopy coverage will be evaluated with the permit site plan.

## **Environmental Review**

### **Natural Resources Inventory**

Approved NRI-017-2024 was submitted with the PPS. The site does not contain woodlands or PMA areas. The NRI shows three on-site specimen trees and two off-site specimen trees. The PPS shows all required information correctly, in conformance with the NRI.

### **Woodland Conservation**

This PPS was initially submitted with an approved standard woodland conservation exemption letter (S-024-2024). On July 1, 2024, the 2024 WCO eliminated the standard exemption for sites that contained less than 10,000 square feet of woodland on-site, rendering the standard exemption S-024-2024 invalid and requiring that the applicant submit a TCP1. Type 1 Tree Conservation Plan TCP1-026-2024 was submitted for review.

Based on the TCP1, the overall site contains no existing woodland areas, and the site must afforest 15 percent of the net tract area for 0.56 acre of afforestation. The woodland conservation worksheet shows 0.56 acre of off-site woodland credits to meet the woodland requirement. This request is evaluated in the variance for not providing the afforestation threshold on-site.

Technical revisions are required to the TCP1, which is included in the conditions of this resolution.

### **Variance for not providing the afforestation threshold on-site**

Section 25-121(c)(3) requires that “The woodland conservation and afforestation threshold shall be met on-site or an application for a variance must be submitted and approved per Section 25-119(d).” The code, however, is not inflexible.

The authorizing legislation of Prince George’s County’s WCO is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in Prince George’s County’s WCO are set forth in Section 25-119(d). Section 25-119(d)(6) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

A Subtitle 25 variance application dated September 19, 2024, and a letter of justification dated August 28, 2024, was submitted for review with this PPS. The applicant provided information in a comment response letter dated August 28, 2024, concerning why the required afforestation cannot be met on-site. The lots are less than 1.0 acre and in conformance with the design requirements in Section 25-122(b)(1)(F), woodland plantings are not permitted on the lots. The

request to use off-site woodland mitigation credits is approved. These woodland credits must be purchased before the first grading permit.

Section 25-119(d)(1) contains six required findings (text in **bold** below) to be made before a variance to the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below. The request by the applicant to not provide the afforestation threshold on-site is approved, based on these findings:

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

In the statement provided by the applicant, this site is a remnant of a larger lot created in 1934, which has since been subject to several legal conveyances resulting in this remaining, unusually shaped, property. The subject property is flag-shaped, with only 50 feet of frontage on Allentown Road and a 50-foot-wide strip of land leading from this frontage to the rear portion of the property where the development is located. Further complicating the lot layout is that the property narrows as it extends further to the west. Three homes currently exist on the property, which is a nonconforming condition. This PPS was submitted to reconcile the nonconformities by subdividing the parcel into five legal lots and providing a 50-foot-wide public ROW and a parcel containing the underground SWM facility. After dedication of land for the required public ROW for access, the remaining property area is barely large enough to yield five lots and one parcel for SWM. The approved NRI confirms that the site does not contain any existing woodlands. The abutting properties are existing single-family detached homes. The afforestation requirement for this development is 0.56 acre or 24,393.6 square feet. There could be potential for providing approximately 10,000 square feet of afforestation on the western portion of Parcel A; however, with the abutting properties developed with single-family homes without woodland conservation, there is no potential for a connection to existing woodlands. The existing property is an infill lot that is isolated from any nearby woodland. The lots are all under 1.0 acre in size and, as listed in Section 25-122(b)(1)(F), woodland conservation cannot be placed on lots under 1.0 acre in size.

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

Enforcement of the requirement to provide the afforestation threshold on-site would deprive the applicant of rights commonly enjoyed by others in similar areas with comparable zoning. Based on the development of five single-family detached lots and a parcel all under 1.0 acre in size, requiring this applicant to provide the afforestation threshold on-site would result in a considerable impact on the development potential of the property as it would prevent the project from being developed in a functional and efficient manner like other developments of similar size and use.

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



This is not a special privilege that would be denied to other applicants. All variance applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the ETM for site-specific conditions. Other properties featuring existing non-wooded lots, surrounded by existing development, and lots under 1.0 acre in size would have been subject to the same considerations during the review of a required variance application.

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

The purpose of this PPS is to bring the property into compliance with applicable codes. Under current regulations, no more than one single family dwelling can exist on a lot. The three dwellings currently existing on the subject property are nonconforming. The nonconformity long predates the applicant's interest in developing this site. The applicant filed this PPS to allow for the existing use to conform to the requirements of the Zoning Ordinance. Two of the three nonconforming dwellings are to be razed.

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

There are no existing conditions relating to land or building uses on the site, or on neighboring properties that have any impact on the subject site. The property currently has no woodlands on site and has not been impacted by any neighboring land or building uses.

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

The granting of this variance will not adversely affect water quality. The project will be subject to the requirements of the Prince George's County Soil Conservation District, and the approval of a SWM concept plan by DPIE. The applicant will meet the woodland conservation requirement with off-site woodland credits.

The required findings of Section 25-119(d) have been adequately addressed for not providing the afforestation threshold on-site. The requested variance to Section 25-121(c)(3) for construction of a residential development is, therefore, approved.

**Specimen Trees**

Section 25-122(b)(1)(G) requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved. The design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree's condition, and the species' ability to survive construction as provided in the Technical Manual."

The authorizing legislation of Prince George's County's WCO is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local

jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in Prince George's County's WCO are set forth in Section 25-119(d). Section 25-119(d)(6) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

The site contains three specimen trees in good condition, all of which are to be removed under the current design.

#### **Variance for Specimen Tree Removal**

A Subtitle 25 Variance application and a letter of justification (LOJ) in support of the variance was received for review with this PPS, dated August 28, 2024, for removal of the three on-site specimen trees. Section 25-122 of the County Code states that "woodland conservation shall be designed as stated in this Division unless a variance is approved by the approving authority for the associated case." Section 25-119(d)(1) of the WCO contains six required findings to be made before a variance can be granted. The submitted LOJ addressed the required findings for the three specimen trees.

The text in **bold**, labeled A-F, are the six criteria listed in Section 25-119(d)(1). The plain text provides responses to the criteria.

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

In relation to other properties in the area, special conditions peculiar to the property would cause an unwarranted hardship if the applicant were required to retain these three specimen trees identified as Specimen Trees ST-1, ST-2, and ST-3. The site is a narrow-shaped property with frontage on Allentown Road and expands to a triangle shape in the western portion of the site. Three homes currently exist on the property, which is a nonconforming condition. This PPS was submitted to reconcile the nonconformities by subdividing the parcel into five legal lots and providing a 50-foot-wide public ROW and a parcel containing the underground SWM facility. The approved NRI confirms three specimen trees are located on-site in good condition and are species with good to medium construction tolerance. The property contains no woodland areas or REF. Specimen Trees ST-1, ST-2, and ST-3 are located within the western portion of the site, adjacent to existing outbuildings that will not be saved. Specimen Tree ST-3 is located on Lot 3, 10 feet from a shed that is to be removed, and in close proximity to the proposed home location. The removal of the shed and the construction of the home will impact 65 percent of the critical root zone. Specimen Trees ST-1 and ST-2 are located in Parcel A, in the location of the underground stormwater facilities. This infill development requires stormwater to be managed on-site by capturing stormwater in the underground detention facilities, where it will be redistributed to the three micro-bioretenement ponds on Parcel A and Lots 1 and 2. Retaining the specimen tree and not impacting its critical root zone is not feasible due to the on-site grading required to provide a stormwater facility and removal of existing buildings.

The removal of these trees will allow the development of the site for single-family detached residential dwellings which is a significant and reasonable use for the subject site, and which cannot be accomplished without adequate SWM and removal of existing buildings. Retention of these trees and protection of their respective critical root zones would have a considerable impact on the development by creating challenges for building siting, and for adequate circulation and infrastructure through the site.

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

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas with comparable zoning. Developing the property in accordance with the Zoning Ordinance is a right commonly enjoyed by others in similar areas. The enforcement of this section of Subtitle 25 would deprive the applicant the right to develop the property in a functional and efficient manner as prescribed by the Zoning Ordinance.

The species, size, construction tolerance, and location of specimen trees on a site are unique for each site.

Specimen Tree ST-3 is located on Lot 3, 10 feet from a shed that is to be removed, and in close proximity to the proposed home location. The removal of the shed and the construction of the home will impact 65 percent of the critical root zone. Specimen Trees ST-1 and ST-2 are located in Parcel A, in the location of the underground stormwater facilities. Based on the location and species of the specimen trees to be removed, retaining the trees and avoiding disturbance to the critical root zones would have a considerable impact on the development potential of the property.

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

This is not a special privilege that would be denied to other applicants. All variance applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 for site specific conditions. If other similar residential developments contained specimen trees with needed grading required for SWM and removal of existing structures, it would be given the same considerations during the review of the required variance application.

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

The applicant has taken no actions leading to the conditions or circumstances that are the subject of the variance request. The location, species composition, and health of the trees as well as other existing natural features throughout the property are based on natural or intentional circumstances that long predate the applicant's interest in developing this site.

The removal of the three specimen trees would be the result of the required infrastructure for the development. The request to remove the trees is solely based on the trees' locations on the site.

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

There are no existing conditions, existing land, or building uses on the site, or on neighboring properties that have any impact on the location or size of the three specimen trees. The variance request stems from the size, location, and construction tolerance of the specimen trees on the subject property and have not been impacted by any neighboring land or building uses.

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

Granting this variance request will not violate state water quality standards, nor cause measurable degradation in water quality. The project will be subject to the requirements of the Prince George's County Soil Conservation District, and the approval of a SWM concept plan by DPIE. The development is subject to ESD to the maximum extent practicable. Stormwater management, erosion, and sediment control requirements are to be met, in conformance with state and local laws, to ensure that the quality of water leaving the site meets the state standards. State standards are set to ensure that no degradation occurs.

**Conclusion**

The required findings of Section 25-119(d) have been adequately addressed for the removal of Specimen Trees ST-1, ST-2, and ST-3. The requested variance for the removal of three specimen trees, for the construction of five single-family detached homes, associated grading, and SWM, is therefore approved.

**Soils**

Section 24-131 of the prior Subdivision Regulations states "The Planning Board shall restrict or prohibit the subdivision of land found to be unsafe for development. The restriction or prohibition may be due to natural conditions, such as, but not confined to, flooding, erosive stream action, high water table, unstable soils, or severe slopes, or to man-made conditions on the property, such as, but not confined to, unstable fills or slopes."

According to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, soils present include Aquasco silt loam, Aquasco-Urban land complex, and Beltsville-Urban land complex. Marlboro and Christiana clays are not found to occur on this property.

**Regulated Environmental Features/Primary Management Area**

The subject property does not contain any on-site REF or PMA.

Based on the foregoing findings, the PPS conforms to the relevant environmental policies of the master plan, and the relevant environmental requirements of the prior Subdivision Regulations and prior Zoning Ordinance.

14. **Urban Design**—Per Sections 27-428 and 27-441(b) of the prior Zoning Ordinance, a detailed site plan is not required for the development. The single-family detached residential use evaluated for this property, in the prior R-R Zone, is permitted per Section 27-441(b).

The regulations and requirements of the prior Zoning Ordinance (applicable to this development within the R-R Zone), applicable sections of the Landscape Manual, and requirements of the Tree Canopy Coverage Ordinance of the County Code will be evaluated at the time of permit review.

Lots 1 and 5 abut an auto salvage yard and an auto repair shop, respectively. Therefore, per the requirements of Section 4.7 of the 2010 *Prince George's County Landscape Manual*, a Type D landscape bufferyard is required between single-family detached lots and the abutting vehicle-related uses. The PPS shows a minimum 50-foot-wide building setback and a minimum 40-foot-wide landscape bufferyard along the property lines of Lots 1 and 5 abutting the vehicle-related uses, meeting the bufferyard requirement for the two lots. The existing single-family detached residential dwelling on Lot 1 is to be retained. Therefore, Lot 1 is exempt from meeting the Section 4.7 bufferyard requirement. However, this requirement will be reevaluated if any revision to the existing building and Lot 1 is proposed in the future, that requires a building or grading permit.

15. **Health Department**—The Prince George's County Health Department completed a health impact assessment review of the PPS and provided the following standard regulatory requirements:

- “1. During the demolition/construction phases of this project, noise should not be allowed to adversely impact activities on the adjacent properties. Indicate intent to conform to construction activity noise control requirements as specified in Subtitle 19 of the Prince George's County Code.
2. During the demolition/construction phases of this project, no dust should be allowed to cross over property lines and impact adjacent properties. Indicate intent to conform to construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.”

The standard regulatory requirements listed in Comments 1 and 2 will be addressed at the time of permitting.

The Health Department also noted that a raze permit will be required for the demolition of any existing structures on-site and, per their permit records, there are no existing carry-out/convenience store food facilities or markets/grocery stores within 0.50-mile radius of the subject property. Research has found that people who live near an abundance of fast-food

restaurants and convenience stores compared to grocery/fresh produce stores, have a significantly higher prevalence of obesity and diabetes.

16. **Community Feedback**—No correspondence was received from the community regarding this subject PPS. In addition, no one from the community signed up to speak at the public hearing for this matter.

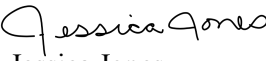
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*


This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, October 17, 2024, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 14th day of November 2024.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

PAS:JJ:MG:tr

  
Approved for Legal Sufficiency  
M-NCPPC Office of General  
Counsel

Dated 10/30/24