

R E S O L U T I O N

WHEREAS, James W. and Margaret Suber are the owners of a 12.9-acre parcel of land known as Parcel 144, located on Tax Map 132 in Grid D-4, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on June 16, 2008, James W. and Margaret Suber filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for R-E; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-08021 for Suber Property Conservation Subdivision 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 on December 4, 2008, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on December 4, 2008, 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 the Type I Tree Conservation Plan (TCPI/020/06), and further APPROVED Preliminary Plan of Subdivision 4-081021, Suber Property Conservation Subdivision, including a Variation from Section 24-130 for Lots 1-10 with the following conditions:

1. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the regulated environmental features and their buffers except for areas of approved impacts and be reviewed by the Environmental Planning Section prior to approval. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

2. Prior to signature of the preliminary plan, the preliminary plan shall be revised to include a table to show conformance with Section 27-445.12 of the Zoning Ordinance by indicating the gross tract, encumbered area, and net tract of each lot.

3. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
4. Prior to signature of the preliminary plan, the TCPI shall be revised to:
 - a. Show the 1.5 safety factor lines associated with severe slopes along the stream in the northern portion of the property and ensure that the resultant 1.5 safety factor lines are not closer than 50 feet to any proposed structure.
 - b. Revise the street grading as required by DPW&T.
 - c. Revise the worksheet as needed.
 - d. Have the revised plan signed and dated by the qualified professional who prepared the plan.
5. The following note shall be placed on the Final Plat of Subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/020/06), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. 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.”
6. At the time of final plat, a scenic easement shall be described by bearings and distances. The scenic easement shall contain all existing woodlands and open space in a 40-foot-wide strip adjacent to Gallahan Road, and shall be reviewed by the Environmental Planning Section prior to approval. The following note shall be placed on the final plat:

“Scenic Easements described on this plat are areas adjacent to designated scenic/historic roads. The installation of structures and roads, and the removal or planting of major vegetation is prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted.”
7. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
8. The applicant and the applicant’s heirs, successors and/or assignees shall provide wide asphalt

shoulders (seven-to-ten feet wide) on Gallahan Road, unless modified by DPW&T.

9. The applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of Class III bikeway signage. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit.
10. At the time of final plat approval, the applicant shall dedicate right-of-way along Gallahan Road of 40 feet from centerline, as shown on the submitted plan.
11. Development of this site shall be in conformance with Stormwater Management Concept Plan 18739-2006-00 (approved May 15, 2007) and any subsequent revisions.
12. Prior to Final Plat for Lots 9 and Lot 10, a Detailed Site Plan shall be conducted. The detailed site plan shall include the metes and bounds for the areas Lots 9 and Lot 10 to ensure the net lot area calculations are accurate. The detailed site plan shall include the examination of the siting of the proposed dwellings on each lot and any potential impacts to the expanded buffer. If at anytime prior to the detailed site plan or during the detailed site plan review it is determined that two lots are not feasible the detailed site plan can be withdrawn and a single lot may be platted without a detailed site plan.
13. At the time of final plat, a 20-foot public use easement to M-NCPPC owned property shall be described by bearings and distances. This easement shall be marked and labeled on the final plat.
14. Prior to approval of the final plat of subdivision, the applicant and the applicant's heirs, successors and/or assignees shall pay a fee-in-lieu of parkland dedication for Lots 2, 3, 4, and 7.
15. At the time of final plat, the applicant and the applicant's heirs, successors and/or assignees shall convey to M-NCPPC a 20-foot-wide strip of land as shown on the Department of Parks and Recreation (DPR) Exhibit A. Land to be conveyed shall be subject to the following:
 - a. An original, special warranty deed for the property to be conveyed (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division of the Maryland-National Capital Park and Planning Commission (M-NCPPC) along with the final plat.
 - b. The M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalls, curbs and gutters, and front-foot benefit charges prior to and subsequent to final plat.
 - c. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits that include such property.

- d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair, or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for grading permits.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. The DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - f. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled and underground structures shall be removed. The DPR shall inspect the site and verify that land is in acceptable condition for conveyance, prior to dedication.
 - g. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of DPR.
 - h. The applicant shall terminate any leasehold interests on property to be conveyed to M-NCPPC.
 - i. No stormwater management facilities, tree conservation or utility easements shall be proposed on land owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond, maintenance and easement agreements shall be required prior to the issuance of grading permits.
16. The following note shall be placed on the Final Plat of Subdivision:

“The subject property was subdivided in accordance with Section 24-152 of the Prince George's County Subdivision Regulations for a Conservation Subdivision and no further subdivision for additional lots shall be permitted.”

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, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
- 2. The property is located on the west side of Gallahan Road approximately 3,500 feet north of its intersection with Piscataway Road.

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

	EXISTING	PROPOSED
Zone	R-E	R-E
Use(s)	Woodlands and undeveloped	Residential and Conservation Parcels
Acreage	12.97	12.97
Lots	0	10
Parcels	1	0

4. **Conservation Subdivision**—The Conservation Subdivision is required for land in the Rural Tier, saving limited exemptions, and is an optional subdivision design approach for land in the Developing Tier. The subject property is located in the Developing Tier as defined by the General Plan and is zoned R-E. Therefore, a conservation subdivision in this instance is optional.

The conservation subdivision development technique was created by the District Council in order to allow for orderly development of land in a manner that “protect(s) the character of land through the permanent preservation of farmland, woodland, sensitive natural features, scenic and historic landscapes, vistas, and unique features of the site in keeping with the General Plan and Countywide Green Infrastructure Plan (CB-04-2006).” This is accomplished by placing a minimum percentage of the site to be developed into permanent conservation. The percentage varies on a sliding scale according to the zoning of the property:

In the R-E and R-R Zones a minimum forty percent of the gross tract area shall be designated as a conservation lot or parcel. Up to sixty percent of the gross tract area may be utilized for residential development areas (24-152(d)).

The standards in this section provide for lots, open space and internal street designs that conserve woodlands, farmland, farm structures, historic structures, and the scenic and unique character of development sites. A Conservation Subdivision prioritizes site characteristics for conservation and is intended to create a site layout that conserves important site features such as open space networks, blocks of productive farmland, unique characteristics of a site and contiguous woodland habitats. The site design should encourage agricultural pursuits, create attractive development layouts respecting existing features of the site, and encourage connectivity between scenic, historic, agricultural, and environmental characteristics of abutting properties.

The criteria for approval of a sketch plan are contained in Section 24-152(k) of the Subdivision Regulations:

The Planning Board shall find that the conservation subdivision:

- (1) Fulfills the purpose and conforms to the regulations and standards for a conservation subdivision.
- (2) Achieves the best possible relationship between the development and the conservation of site characteristics as prioritized in the sketch plan and preliminary plan.
- (3) Because the use of the Conservation Subdivision technique in the Developed or Developing Tier is optional, the Planning Board shall also find that the proposed plan is clearly superior to that which could be achieved through the use of conventional development standards and clearly meets the purposes of the Conservation Subdivision technique. Lot yield shall be a secondary consideration to achieving the purposes of the Public Benefit Conservation Subdivision in assessing whether a proposed plan is clearly superior.

Sketch Plan

The applicant filed Sketch Plan S-07016 on December 27, 2007. Staff conducted a site visit on February 8, 2008. The sketch plan was certified by the Planning Director on May 19, 2008. Staff agreed with the applicant's contention that the site is appropriate for a Conservation Subdivision and does provide opportunities for preservation that may not be obtained with a conventional subdivision.

The review and evaluation of the sketch plan determined that the site only contains significant environmental features and does not contain farmlands or farm structures, has no significant vistas, and lacks significant cultural features. In this instance, proposed conservation areas will protect sensitive environmental features and preserve contiguous woodlands along the stream.

An approved Natural Resources Inventory, NRI/018/06, was submitted with the application. Streams and expanded stream buffers associated with Tinkers Creek occur on the property. The site is mostly wooded and there is an existing cleared power line right-of-way. The forest stand delineation (FSD) indicates two forest stands totaling 10.67 acres and notes the species, size and condition of 27 specimen trees. The Environmental Planning Section has determined that the characteristics that are the highest priority for preservation are the existing woodlands along the stream valley. The sketch plan notes that preservation of the view from historic Gallahan Road is an important design element.

Gallahan Road is identified as a scenic asset for this site. It should be noted that preservation of environmentally sensitive areas and woodland are required of all subdivisions pursuant to Section 24-130 and 24-132 of the Subdivision Regulations, respectively. The applicant does show a well planned, contiguous conservation area on the site, which provides connectivity to environmental characteristics on adjoining property owned by M-NCPPC both to the north and south of the site. All of these factors lead the staff to conclude that the development of this site using the conservation subdivision option is appropriate.

Preliminary Plan

The preliminary plan illustrates a ten-lot subdivision accessed by a 50-foot right-of-way that extends to a private 50-foot road that extends to platted, but undeveloped Clarion Road. The public road provides access to proposed Lots 1, 2, and 3. Lots 9 and 10 are accessed via an easement that extends from the public road. Proposed Lots 4–8 are accessed via the private road, which is permitted when utilizing the conservation subdivision as a method of development. Lots 1, 5, 6, 8, and 9 are conservation lots providing contiguous woodlands along the stream and connecting to woodlands on M-NCPPC owned property. There is a 50-foot public easement that extends across Lots 7 and 8 that provides access to M-NCPPC owned Forest Knolls Neighborhood Park, which is undeveloped.

The NRI shows all existing environmental features and landscape features. The TCPI shows the proposed location for dwellings on the areas least suitable for conservation. These include the open areas of the site, areas with low quality woodlands and areas outside of the delineated stream buffers. The preliminary plan shows the areas proposed for conservation lots. No conservation parcels are proposed. The proposed conservation areas will protect sensitive environmental features and preserve contiguous woodlands along the stream. The TCPI proposes preservation of the best on-site woodlands, unavoidable impacts to sensitive environmental features and preservation of most of the specimen trees. Individual septic recovery systems areas are not proposed. The TCPI shows all proposed roads, lot lines and setbacks. The development of this site using the conservation subdivision option is appropriate.

Staff recommended combining proposed Lots 9 and 10. Lot 9 contains environmental features, such as steep slopes and expanded stream buffers, which limit the placement of any structure on the lot as it is currently designed. The original preliminary plan did not calculate the amount of net lot area for each lot. After subtraction of the PEPCO easement and the 30-foot private ingress easement, it appeared that the net tract area of proposed Lot 10 would be less than 20,000 square feet. The preliminary plan should be revised to include a table to show conformance with Section 27-445.12 of the Zoning Ordinance by indicating the gross tract, encumbered area, and net tract of each lot.

At the December 4, 2008, Planning Board Hearing the applicant's engineer provided an exhibit that illustrated Lot 9 and Lot 10, a table indicating the gross tract area, net lot area and all subtracted easements. The applicant's attorney was charged with providing documentation that the net lot areas for Lot 9 and Lot 10 would be large enough to accommodate the two lots. While the exhibit reflected more than 40,000 square feet of net lot area to accommodate the two lots, it was determined that a Detailed Site Plan should be conducted for Lot 9 and Lot 10 only prior to final plat. The detailed site plan should include the metes and bounds for the areas of Lot 9 and Lot 10 in conformance with Section 27-445.12 of the Zoning Ordinance to ensure the calculations are accurate. The detailed site plan should include the examination of the siting of the proposed dwellings on each lot and any potential impacts to the expanded buffer. There is a possibility of the potential loss of a lot due to constricted design during the review of the detailed site plan. If at anytime prior to the detailed site plan or during the detailed site plan review it is determined that two lots are not feasible the detailed site plan can be withdrawn and a single lot may be platted

without a detailed site plan. Should the applicant or the Planning Board decide that only one lot is appropriate, the Detailed Site Plan is not applicable for the single lot. The applicant has the option of doing a sequential plat that will allow them to move forward with the platting and development of the other eight lots.

The site is adjacent to Gallahan Road, which is a master plan collector facility. The submitted plan shows adequate dedication of 40 feet from centerline along Gallahan Road. The proposed residential lots would receive access via an extension of Clarion Road between an existing platted section and Gallahan Road. It was noted that Clarion Road is platted at 60 feet on the adjacent site. It was initially considered to require a similar width of 60 feet within this property as well because it might connect across this property to the platted, but undeveloped, Forest Knolls Subdivision. Further examination of the environmental constraints on the adjacent site suggested that limited development beyond this site and the 50-foot right-of-way for Clarion Road was deemed acceptable.

South of the 100-foot PEPCO power line right-of-way is a 50-foot landscape easement, which is required per the *Prince George's County Landscape Manual*. The alignments of both the public and private roads traverse the 50-foot landscape easement between proposed Lots 1–4. The applicant is working with PEPCO to obtain permission for the construction of the bulb of the cul-de-sac in the power line right-of-way. Alternative compliance will be necessary at the time of permits to address the Landscape Manual requirement for the 50-foot landscape easement eliminated by the proposed road for proposed Lots 1–4.

5. **Community Planning**—This preliminary subdivision is not inconsistent with the 2002 General Plan Development Pattern Policies for the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low-to moderate-density suburban residential communities, distinct commercial centers and employment areas that are increasingly transit serviceable. The proposal is for a residential, low-density land use at a density up to 3.5 dwelling units per acre. The 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* retained the R-E Zone for this property. This preliminary subdivision conforms to the residential, low-density land use recommendation in the 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment.
6. **Environmental**—The site is mostly wooded and there is a cleared power line right-of-way. According to the *Prince George's County Soils Survey*, the principal soils on this site are in the Aura, Matapeake and Sassafras series. A significant area of Marlboro clay occurs on the site. Streams and expanded stream buffers associated with Tinkers Creek occur on the property. Tinkers Creek is designated as a Primary Corridor in the Henson Creek Master Plan. There are no nearby traffic-generated noise sources. The proposal is not expected to be a noise generator.

Environmental Issues Addressed in the Henson Creek Master Plan

The master plan contains policies that must be considered as part of the review of any development. With regards to this particular property the principal policy is “Protect, preserve and enhance the identified green infrastructure network within the Henson Creek planning area.”

The strategy to be used is to protect primary corridors (Henson/Broad Creek and Tinkers Creek/Piscataway Creek) during the review of land development proposals to ensure the highest level of preservation and restoration possible, with limited impacts for essential development elements. The subject property contains extensive sensitive environmental features that can be better preserved within conservation parcels in a conservation subdivision than on conventional lots in the R-E Zone. The TCPI proposes preservation of the best on-site woodlands, unavoidable impacts to sensitive environmental features and preservation of most of the specimen trees.

Conformance with the Countywide Green Infrastructure Plan

A portion of the property is designated as a Regulated Area and the remainder is designated as an Evaluation Area in the *Approved Countywide Green Infrastructure Plan*. The Evaluation Areas are the forested areas contiguous with the Regulated Areas that contain special environmental features that should be considered for preservation. The site's location within the designated network means that every effort must be made to preserve the regulated features and meet the Woodland Conservation and Tree Preservation Ordinance requirements on-site. The preliminary plan shows substantial preservation of the Regulated Area and priority portions of the Evaluation Area.

The following policies support the stated measurable objectives of the Countywide Green Infrastructure Plan:

Policy 1: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.

The subject property contains Regulated Areas and Evaluation Areas. The TCPI conforms to the Countywide Green Infrastructure Plan by preserving priority woodlands within Regulated Areas and adjacent Evaluation Areas, and by meeting its entire woodland conservation requirement on-site.

Policy 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded.

Preservation of water quality in this area will be provided through the protection of the expanded stream buffers and the application of best stormwater management practices for stormwater management. It is recommended that low-impact development stormwater management methods be applied on this site, to the fullest extent possible.

Policy 3: Preserve existing woodland and replant woodland, where possible, while implementing the desired development pattern of the 2002 General Plan.

The TCPI conforms to the Countywide Green Infrastructure Plan by preserving priority woodlands within Regulated Areas and adjacent Evaluation Areas, and by meeting its entire woodland conservation requirement on-site.

Policy 4: Promote environmental stewardship as an important element to the overall success of the Green Infrastructure Plan.

The proposed conservation lots include conservation areas that will be administered by the local community.

Policy 5: Recognize the green infrastructure network as a valuable component of the county's Livable Communities Initiative.

The proposed conservation lots will allow citizens to enjoy the significant environmental features of the local community.

The proposed development and TCPI generally conform to the Countywide Green Infrastructure Plan for the reasons stated above.

ENVIRONMENTAL REVIEW

According to available information, portions of this property have Marlboro clay associated with steep and severe slopes. This creates a condition of potentially "unsafe lands" that must address the provisions of Section 24-131 of the Subdivision Regulations. A geotechnical report that includes a map showing locations of boreholes, logs, laboratory tests and computer modeling is required to analyze the lotting pattern and grading. Whenever a public street is constructed through Marlboro clay, side slopes of 5:1 or less are required and the correct grading is shown on the TCPI. Additionally, because of the presence of Marlboro clay, special measures may be required to control stormwater runoff.

The geotechnical reports, dated October 3, 2006, and a revised geotechnical report, dated July 20, 2007, have been reviewed. The information in the reports was further assessed during the field visit on February 8, 2008. Although Marlboro clay occurs on the property, its occurrence will only affect foundations and road construction and is not a significant cause of existing slope stability problems. It appears that the conceptual grading shown on the TCPI will not create slope stability problems with regard to Marlboro clay; however, the Department of Public Works and Transportation (DPW&T) will review the final grading to ensure that the new slopes are stable.

There are slopes on the site associated with the stream valley in the northern portion of the property that should be addressed using the rational method for determination of 1.5 safety factor lines. The rational method sets the 1.5 safety factor lines at a distance of three times the height of the slope measured horizontally from the toe of the slope. The resultant 1.5 safety factor lines may be placed on R-E lots; however, the resultant 1.5 safety factor lines cannot be closer than 50 feet to any proposed structure. The slopes associated with the stream valley are not the result of active erosion, but were formed over geological time. Stream restoration is not needed; however,

the 1.5 safety factor line must be shown on the plans to ensure the proper placement of new structures.

Although the 1.5 safety factor lines are not correctly shown on any of the plans submitted for review, staff has reviewed the plans in detail. The house location shown on proposed Lot 1 is problematic because it will be too close to the 1.5 safety factor line. Staff has determined that proposed Lots 1–5 could be retained by shifting the lots south. The preliminary plan and TCPI should be revised to show the 1.5 safety factor lines associated with severe slopes along the stream in the northern portion of the property and ensure that the resultant 1.5 safety factor lines are not closer than 50 feet to any proposed structure.

Forest Stand A covers approximately 10.10 acres of the site. This woodland is dominated by tulip poplar averaging 19 inches diameter at breast height; has a dense shrub layer dominated by Boxelder and Spicebush; and few invasive plants. Forest Stand B covers approximately 0.57 acres in the northeast corner of the site. This woodland is dominated by Mockernut Hickory averaging 16 inches diameter at breast height; has a shrub layer dominated by Spicebush; and few invasive plants. Both of the forest stands are suitable for on-site preservation and are considered high priority due to the species composition and location within the green infrastructure network. The expanded stream buffers delineated on the NRI are correctly shown on the preliminary plan.

At the time of final plat, a conservation easement should be established by bearings and distances. The conservation easement should contain all of the regulated environmental features and their buffers except for areas of approved impacts and should be reviewed by the Environmental Planning Section prior to approval. The preliminary plan indicates that regulated areas are proposed to be on some proposed lots. Section 27-445.12 of the Zoning Ordinance permits the encumbrance of lots in conservation subdivisions if the minimum net lot area required for each residential lot is at least 20,000 square feet in the R-E Zone. The contiguous net lot area counted toward the minimum lot area must be located outside of the 100-year floodplain and environmentally regulated areas; including primary management areas as defined by Section 24-101 of the and expanded buffers, as defined by Section 24-130 of the Subdivision Regulations, lot area greater than the minimum net lot area may be encumbered by these regulated features.

It appears that to have any development on the site that an impact to the expanded buffer will be necessary. Impacts to regulated environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations will require variation requests in conformance with Section 24-113 of the Subdivision Regulations. The design should avoid any impacts to streams, wetlands and their associated buffers unless the impacts are essential for the development as a whole. Staff generally will not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines [including sewer and stormwater outfalls], street crossings, and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

During the review of the sketch plan, staff noted that the preferred access to the developable area outside of the expanded stream buffers in the northwest corner of the site, in the area of proposed Lots 9 and 10, could be accessed from Old Piscataway Road. Staff noted that this is a paper street and has significant topographic changes along its course. The DPW&T has determined that access to this area is not feasible from the platted portion of Old Piscataway Road. The sketch plan further recognized that access from Old Piscataway Road was not feasible.

The location of Suber Terrace has been constrained by the need to allow for a future connection to the platted portion of Clarion Road in the southwestern corner to Gallahan Road. Due to site distance limitations, the intersection of Suber Terrace at Gallahan Road can not be moved from the location shown on the plans. Staff further notes that any development of the subject property would require impacts to expanded stream buffers because the only road frontage for the property is wholly within expanded stream buffers.

Impacts to sensitive environmental features require variations to the Subdivision Regulations. A variation request, dated August 20, 2008, was submitted. Section 24-113 of the Subdivision Regulations contains four required findings [text in bold] to be made before a variation can be granted.

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 the evidence presented to it in each specific case that:

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The installation of a public street and a sanitary sewer connection are required by Prince George's County to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

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

There is only one available access from a public street that requires impacts to construct required street improvements because the road frontage lies completely within expanded

stream buffers. The existing sanitary sewer line is wholly within an expanded stream buffer. Collectively, these features generally distinguish the subject property from other area properties.

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

The installation of a public street and a sanitary sewer connection are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

(4) Because of the peculiar 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 the strict letter of these regulation is carried out.

The expanded stream buffers create a barrier to the property. Without the required public road and sanitary sewer, the property could not be properly developed in accordance with the R-E zoning.

The Environmental Planning Section supports the variation request for the reasons stated above.

Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant should submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

This property is subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the gross tract area is in excess of 40,000 square feet and there are more than 10,000 square feet of existing woodland on-site. The Conservation Subdivision Regulations indicate that the woodland conservation required for the site may be provided at an off-site location, only if it is necessary to preserve the rural and agricultural landscape. Because this site is currently mostly wooded, with no agricultural landscapes, all woodland conservation requirements should be met on-site. A Type I tree conservation plan is required.

The Type I Tree Conservation Plan, TCPI/020/06, has been reviewed. The woodland conservation threshold is 3.23 acres. Based upon the proposed clearing, the total woodland conservation requirement has been correctly calculated as 4.85 acres. The plan proposes to meet the requirement by providing 3.86 acres of on-site preservation and 0.99 acre of on-site planting for a total of 4.85 acres. The TCPI proposes preservation of the best on-site woodlands, unavoidable impacts to sensitive environmental features, such as the stream crossing as outlined in the variation request, and preservation of most of the specimen trees.

As noted previously, the 1.5 safety factor lines must be shown and the street grading must be verified. With the removal of proposed Lot 10, the area to be cleared for a structure on proposed Lot 9 can be reduced. Additionally, after Lots 1–5 are adjusted, the grading can be reduced in the rear yards of lot proposed Lots 4 and 5. The reduced clearing will lower the woodland conservation requirements and could allow all woodland conservation to be met on-site in the form of preservation. The TCPI should be revised. A note citing the restrictions of the approved Type I Tree Conservation Plan (TCPI/020/06) should be placed on the final plat of subdivision.

The “Design Guidelines and Standards for Scenic and Historic Roads” provides guidance for the review of applications that could result in the need for roadway improvements. In conformance with other subdivisions recently approved along Gallahan Road, the plan should provide 40-foot-wide landscape buffers adjacent to the ten-foot public utility easement parallel to the land to be dedicated for Gallahan Road. Additionally, all proposed lots will front on streets internal to the subdivision and none will have direct access to Gallahan Road, which is appropriate. These features will serve to help retain the scenic character of Gallahan Road. The preliminary plan and Type I Tree Conservation Plan provide 40-foot-wide scenic road buffers adjacent to the ten-foot public utility easement parallel to the land to be dedicated for Gallahan Road. Scenic easements, a minimum of 40-foot-wide adjacent to the ten-foot public utility easements parallel to the land to be dedicated for Gallahan Road, should be shown on the final plats and a note should be placed on the plat citing the easements.

Water and Sewer

Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.” Water and sewer extensions are required. A pressure reducing valve may be required for water service to serve this property.

The 2001 *Water and Sewer Plan*, as amended by CR-43-2005, placed this property in water and sewer Category 4, Community System Adequate for Development Planning. The provision of water and sewerage to this site is consistent with the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B* and the 2002 *Approved General Plan*.

7. **Parks**—The proposed development abuts the Forest Knolls Neighborhood play ground, a 2.5-acre, undeveloped park. Currently, the park has poor access. The only legal access to the site is from Old Piscataway Road. The portion of this road that is adjacent to M-NCPPC owned parkland was never built and exists only as a paper right-of-way. This public right-of-way would be difficult to build due to the severe slopes that exist throughout the right-of-way and surrounding land. There are severe slopes that exist throughout the right-of-way that hinder the development of adequate public access to this parkland.

Lack of physical access to the parkland is a hindrance, both for maintenance purposes and the

public ability to use the parkland for passive recreation purposes. The development of this proposed subdivision will provide an opportunity to gain access to the park for maintenance and public use. The Department of Parks and Recreation staff has had discussions with the applicant regarding access to M-NCPPC parkland. The dedication of a 20-foot-wide strip of land across the applicant's property will improve accessibility issues for M-NCPPC owned parkland.

In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations, mandatory dedication is to be met through land dedication and fee-in-lieu for Lots 2, 3, 4, and 7. The preliminary plan should be revised to locate the 20-foot-wide land dedication to the M-NCPPC, Department of Parks and Recreation, on Lot 7 at the property boundary line. Access to the dedicated park land will be provided via the private road serving Lots 4–8.

8. **Trails**—The approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment (2006) designates Gallahan Road as a shared-use bikeway. Relatedly, Gallahan Road has recently been designated as part of the *Potomac Heritage Trail On-Road Bicycle Route*. This bicycle route was developed by M-NCPPC in cooperation with the community, Oxon Hill Bicycle and Trails Club, Southern Prince George's Trails Coalition, and the National Park Service. This bikeway can be accommodated through the provision of bikeway signage and bicycle-compatible road improvements. A wide asphalt shoulder and the provision of one "Share the Road with a Bike" sign are recommended to safely accommodate bicycle movement along the subject site's frontage of Gallahan Road, per the concurrence of Department of Public Works and Transportation (DPW&T).

It should also be noted that the subject site is adjacent to M-NCPPC Tinkers Creek Stream Valley Park. The stream valley parkland is immediately to the south of the subject site. This land will ultimately include a master plan stream valley trail. Road cross sections and the provision of sidewalks internal to the site should be per the direction of DPW&T. Improvements should be consistent with those of approved Preliminary Plan 4-04143 (Gallahan I), which is immediately to the north of the subject site.

9. **Transportation**—The application is a preliminary plan of subdivision for a residential subdivision consisting of 10 lots. The proposed development would generate 8 AM (2 inbound and 6 outbound) and 9 PM (6 inbound and 3 outbound) weekday peak-hour vehicle trips as determined using the "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

The traffic generated by the proposed preliminary plan would impact the following intersections, interchanges, and links in the transportation system:

- Gallahan Road and Old Fort Road South (unsignalized)

Due to the size of the subdivision, a traffic study was not required to be done. Traffic counts at the critical intersection were requested for the purpose of making an adequacy finding, and counts dated August 2008 were specifically allowed to be done by the staff,

received, and factored in accordance with the Guidelines. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the Guidelines.

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

Links and signalized intersections: Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections subject to meeting the geographical criteria in the Guidelines.

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

The intersection of Gallahan Road and Old Fort Road South, when analyzed with existing traffic and existing lane configurations, operates with a maximum delay of 11.5 seconds during the AM peak hour, and with a maximum delay of 10.8 seconds during the PM peak hour. The Prince George's County Planning Board has defined an upper limit of 50.0 seconds of delay in any movement as the lowest acceptable operating condition on the transportation system.

None of the critical intersections, interchanges and links identified above are programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Plan. Background traffic has been developed in the traffic study using approved development encompassing over 630 proposed residences and 1.4 percent annual growth rate in through traffic along both intersecting facilities. The critical intersection of Gallahan Road and Old Fort Road South, when analyzed with background traffic and existing lane configurations, operates with a maximum delay of 21.0 seconds during the AM peak hour, and with a maximum delay of 14.9 seconds during the PM peak hour.

The critical intersection of Gallahan Road and Old Fort Road South, when analyzed with total future traffic as developed using the Guidelines, including the site trip generation as described above and a distribution of 15 percent south along Gallahan Road, 80 percent north along Old Fort Road South, and five percent southwest along Old Fort Road South, operates with a maximum delay of 21.5 seconds during the AM peak hour, and with a maximum delay of 14.9 seconds during the PM peak hour. Therefore, it is found that the critical intersection operates

acceptably under existing, background, and total traffic in both peak hours.

The site is adjacent to Gallahan Road, which is a master plan collector facility. The submitted plan shows adequate dedication of 40 feet from centerline along Gallahan Road. The proposed residential lots would receive access via an extension of Clarion Road between an existing platted section and Gallahan Road. It was noted that Clarion Road is platted at 60 feet on the adjacent site. It was initially considered to require a similar width of 60 feet within this property as well, because it might connect across this property to future undetermined uses. Further examination of the environmental constraints on the adjacent site suggested that ten to 12 residences might be a maximum potential for development beyond this site, and the 50-foot right-of-way for Clarion Road was deemed acceptable.

Transportation Conclusions

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George’s County Subdivision Regulations.

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

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	10 DU	10 DU	10 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	2.4	.60	1.2
Actual Enrollment	4,524	4,065	7,278
Completion Enrollment	112.08	45.54	91.08
Cumulative Enrollment	24.96	34.38	68.76
Total Enrollment	4,663.44	4,145.52	7,439.04
State Rated Capacity	4,775	4,983	7,792
Percent Capacity	97.66%	83.19%	95.47%

Source: Prince George’s County Planning Department, M-NCPPC, July 2008

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000

per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,870 and \$13,493 to be paid at the time of issuance of each building permit. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The Special Projects Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-31-2003 and CR-23-2003.

11. **Fire and Rescue**—This subdivision plan was reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance. Special Projects staff has determined that this preliminary plan is within the required seven minute response time for the first due fire station Allentown Road Company 47, using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire/EMS Department. Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn fire and rescue personnel staffing levels. The Fire/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.
12. **Police**—The subject property is located in Police District IV, Oxon Hill. The response time standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on June 16, 2008.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date June 16, 2008	5/07–5/08	10 minutes	15 minutes
Cycle 1 - Cycle 3	5/07–5/08	10 minutes	15 minutes

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met June 24, 2008. The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police personnel staffing levels.

13. **Health Department**—The Environmental Engineering Program has reviewed the sketch plan of subdivision for Suber Property and has no comments to offer.
14. **Stormwater Management**—The DPW&T has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, 18739-2006-00, has been approved with

conditions by the DPW&T on May 15, 2007. The approval waives on-site water quantity and quality controls because of the presence of Marlboro clay. All stormwater runoff, including that from rooftops, must be conveyed into a closed stormdrain system. Although the approval requires a geotechnical report at the time of grading permit and requires that all structures be at least 25 feet from any 1.5 safety factor line, the review of the geotechnical report was necessary as part of the preliminary plan review in order to determine that the layout meets the requirements set forth in Section 24-131 of the Subdivision Regulations.

15. **Archeology**—Phase I archeological survey is not recommended. Paula Bienenfeld, archeology consultant, previously reviewed this property under Preliminary Plan of Subdivision 4-06007, and found that the probability of archeological sites being present on the property was low. However, the applicant should be aware that thirteen prehistoric and historic sites are located within a one-mile radius of the subject property. In addition, nine historic sites and historic resources are located within a one-mile radius of the subject property.

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

16. **Historic Preservation**—The site has no effect on historic resources.

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 Squire, seconded by Commissioner Vaughns, with Commissioners Squire, Vaughns and Parker voting in favor of the motion, and with Commissioners Cavitt and Clark absent at its regular meeting held on Thursday, December 4, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 22nd day of January 2009.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator