



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
TTY: (301) 952-4366  
[www.mncppc.org/pgco](http://www.mncppc.org/pgco)

PGCPB No. 13-19

File No. 4-12018

## RESOLUTION

WHEREAS, Magruder Property LLC is the owner of a 40.87-acre parcel of land known as Tax Map 118 in Grid E-2 and is also known as Parcel 10, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned Residential-Agricultural (R-A); and

WHEREAS, on September 27, 2012, Magruder Property LLC filed an application for approval of a Preliminary Plan of Subdivision for 17 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-12018 for Magruder West 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 February 28, 2013, for its review and action in accordance with the Land Use Article of the 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 February 28, 2013, 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 1 Tree Conservation Plan (TCP1-012-06), and further APPROVED Preliminary Plan of Subdivision 4-12018, Magruder West, including a Variance to Section 25-122(b)(1)(G) for 17 lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Re-label Outparel A as "Outlot A."
  - b. Label the adjacent historic site and its environmental setting as "Woodstock, Historic Site, 82A-013."
  - c. Label the road-widening dedication along Trumps Hill Road.
  - d. Correct the general notes to reflect the lot width at the front building line at 150 feet, not BRL.
  - e. Revise the note regarding conveyance of Outlot A to state the following:

PGCPB No. 13-19  
File No. 4-12018  
Page 2

“Outlot A should be encumbered with a bufferyard easement and be conveyed to Parcel 106, Woodstock Historic Site; **OR** be incorporated into Lot 16, with the existing access easement for Parcel 106 to remain and its location reflected on the final plat.”

- f. Add a note to provide the liber/folio of the access easement serving Parcel 106.
  - g. Correct the general note regarding the area of environmental regulated features to reflect the primary management area acreage of 7.50 acres as shown on approved Natural Resources Inventory NRI-141-05-02.
  - h. Show only one optional entrance sign with a sign easement.
2. Development of this site shall be in conformance with Stormwater Management Concept Plan 1602-2006-00 and any subsequent revisions.
3. Prior to approval of the final plat for Lots 1 through 4, the applicant and the applicant's heirs, successors, and/or assignees shall obtain approval of a limited detailed site plan for Lot 3 from the Planning Board or its designee. The detailed site plan shall address the following:
  - a. The house siting on Lot 3 shall be modified and the exterior noise level re-evaluated to provide a rear yard outdoor activity area with a maximum 65 dBA (Ldn) without the use of noise walls. If this is not practicable, Lot 3 shall be deleted and the redesign Lots 1 through 4 shall be in accordance with Staff Exhibit A, which results in a 16-lot subdivision.
4. Prior to signature approval of the preliminary plan of subdivision and Type 1 tree conservation plan, the plans shall be revised as necessary to reduce the primary management area impacts on Lot 14 and provide the minimum septic recovery allowed by the Health Department located outside the PMA to the fullest extent possible. The applicant shall submit evidence from the Health Department.
5. Prior to signature approval of the preliminary plan, the Type 1 tree conservation plan (TCP1) shall be revised as follows:
  - a. Provide a lot-by-lot table for woodland conservation; the gross lot area; the amount of net lot area on each lot; the area of net lot area which has been provided outside the PMA; and the amount of net lot area located within the PMA.
  - b. Have the revised TCP1 signed and dated by the qualified professional who prepared it.
  - c. The following variance note shall be provided on the plan sheet:

PGCPB No. 13-19  
File No. 4-12018  
Page 3

“NOTE: This plan is in accordance with the following variance(s) from the strict requirements of Subtitle 25 approved by the Planning Board on (Date):

“(1) The removal of 15 specimen trees (Section 25-122(b)(1)(G)) numbered: ST-2, 3, 4, 5, 34, 35, 36, 37, 38, 46B, 47B, 48A, 58, 61, and 62.”

6. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-012-06). 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 (TCP1-012-06 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. 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.”

7. At the time of final plat, the following note shall be placed on the final plat:

“Prior to signature approval of a TCP2 for this property, pursuant to Section 25-122(d)(1)(B), all woodland preserved, planted, or regenerated on-site shall be placed in a woodland conservation easement recorded in land records and the liber/folio of the easement shall be indicated on the TCP2.”

8. At the time of final plat, the area that includes the delineated primary management area (PMA), except for approved impacts, shall be described by bearings and distances and shall be placed in conservation easements. The following note shall be placed on the plat:

“PMA 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 the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

9. At the time of final plat, a 40-foot-wide scenic easement behind the ultimate right-of-way and a public utility easement shall be established along historic Trumps Hill Road as delineated on the preliminary plan of subdivision, and a note shall be placed on the final plat as follows:

“Trumps Hill Road is a county-designated Historic Road. The scenic easement described on this plat is an area the installation of structures and roads and/or the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning

PGCPB No. 13-19  
File No. 4-12018  
Page 4

Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

10. Prior to approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits for Lots 2, 4, 13, 14, and 16 (lots as reflected on the preliminary plan of subdivision) stating that the building shells of structures within the prescribed noise corridor for Robert Crain Highway (US 301) have been designed to reduce interior noise levels to 45dBA (Ldn) or less, in accordance with the Traffic Noise Evaluation for Magruder West, prepared by Staiano Engineering, Inc. dated January 28, 2013.
11. Prior to issuance of any permits which impact wetlands, wetland buffers, streams, or waters of the U.S., the applicant shall provide the Environmental Planning Section with copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
12. At the time of building permits, the street lighting plan for the subject property shall demonstrate the use of full cut-off optics to ensure that off-site light intrusion into residential and environmentally-sensitive areas is minimized. The following note shall be placed on the site design and street construction plan:

"All street lighting shall use full cut-off optics and be directed downward to reduce glare and light spill-over."
13. The final plat shall label the denial of vehicular access to Robert Crain Highway (US 301) from any residential lot on the subject site with the exception of the existing driveway onto US 301 which serves abutting Parcel 106, which shall remain across Outlot A or Lot 16, as determined at the time of final plat.
14. Prior to approval of a building permit on each lot for Lots 14 through 16, the applicant and the applicant's heirs, successors, and/or assignees shall obtain approval of a limited detailed site plan from the Planning Board or its designee. At the time of detailed site plan, the following issues shall be evaluated:
  - a. The impacts of the architecture, height, materials, design, and color of the houses proposed on Lots 14, 15, and 16 on the environmental setting of Woodstock Historic Site, 82A-013.
  - b. The design and details of the houses on Lots 14, 15, and 16 shall be of a traditional nature and compatible with the character of the adjacent historic site; these houses shall employ siding, trim and decorative details, window forms and fenestration patterns, roof forms and materials, and colors typical of or compatible with mid-nineteenth century rural dwellings and the adjacent Woodstock historic site.

PGCPB No. 13-19

File No. 4-12018

Page 5

- c. The Historic Preservation Commission shall review the limited detailed site plan to ensure the compatibility of the new construction with the historic and architectural character of the Woodstock historic site.
15. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall grant a ten-foot-wide public utility easement along the public and private rights-of-way as delineated on the approved preliminary plan of subdivision.
16. Total development within the subject property shall be limited to equivalent development which generates no more than 13 AM and 15 PM weekday peak-hour vehicle trips. Any development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
17. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall dedicate for public use the 60-foot-wide right-of-way and the road widening along Trumps Hill Road as delineated on the approved preliminary plan of subdivision.
18. Nonresidential development shall require approval of a new preliminary plan of subdivision prior to approval of any building permits.
19. Prior to approval of the final plat, the disposition of Outlot A shall be determined by either of the following:
  - a. The applicant and the applicant's heirs, successors, and/or assignees shall submit an executed deed of conveyance and, prior to recordation of the plat, the deed shall be recorded. An executed 60-foot-wide bufferyard easement shall also be submitted and the liber/folio of the easement to be noted on the plat; **OR**
  - b. Outlot A shall be incorporated into Lot 16 and the liber/folio of the existing access easement to serve Parcel 106 on Outlot A shall be noted on the plat.
20. At the time of building permits, all the rears of dwelling units within 200 feet of the interior edge of the scenic easement shall not be oriented toward Trumps Hill Road.
21. Prior to approval of the final plat, applicant and the applicant's heirs, successors, and/or assignees shall submit a sign easement and maintenance agreement approved by the Department of Environmental Resources pursuant to Section 27-624 of Zoning Ordinance, and the liber/folio of the easement and agreement shall be noted on the plat, or the sign easement shall be removed.
22. Prior to issuance of sign permits, the applicant and the applicant's heirs, successors, and/or assignees shall submit the sign plan for review and approval by the Historic Preservation Commission.

PGCPB No. 13-19

File No. 4-12018

Page 6

23. Prior to approval of the final plat, an executed private access easement agreement shall be submitted and approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC). The access easement, authorized pursuant to Section 24-128(b)(1) of the Subdivision Regulations, shall set forth the rights, responsibilities, and liabilities of the lot owners. The easement shall contain two parts, one for the northern access easement and one for the southern access easement with joint responsibility of maintenance for both parts to be shared in common by all lot owners. The easement document shall include utility access and be recorded in the land records of Prince George's County, and the liber/folio reflected on the record plat.

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 the Land Use Article of the Annotated Code of Maryland.
2. **Background**—This Preliminary Plan of Subdivision, 4-12018, was originally scheduled for the Planning Board hearing date of February 21, 2013. The technical staff report originally recommended disapproval of the application because the applicant did not submit the requested information in a timely manner as established in the Process Guidelines for Development Review Applications enacted by approval of Prince George's County Planning Board Resolution No. 08-71. At the time of the original staff report, staff could not find conformance to Subtitle 24, Subdivision Regulations, of the Prince George's County Code. The applicant submitted a letter dated February 1, 2013 (Shaffer to Hewlett) to request a one-week continuance to February 28, 2013, to have additional time to address outstanding lot layout and environmental issues. At the Planning Board hearing on February 21, 2013, the Planning Board granted a continuance to February 28, 2013, which is the last possible Planning Board hearing date within the 140-day mandatory action timeframe for this preliminary plan.

The subject property is located on Tax Map 118 in Grid E-2 and is known as Parcel 10. The site is 40.87 acres and is zoned Residential-Agricultural (R-A). Parcel 10 is a deed parcel which has never been the subject of a preliminary plan of subdivision approval. The applicant is proposing to subdivide the subject property into 17 lots for single-family detached dwellings and one outlot.

The applicant previously submitted a preliminary plan of subdivision for the subject property. Preliminary Plan of Subdivision 4-11010 was accepted on March 8, 2006 and proposed to subdivide the property into 20 conventional lots for single-family dwelling units and one outlot. The Prince George's County Planning Board disapproved Preliminary Plan of Subdivision 4-11010 (PGCPB Resolution No. 06-187) due to inadequate fire and rescue staffing levels pursuant to Section 24-122.01(e) of the Subdivision Regulations.

The property is zoned R-A where the minimum lot size is two acres and the maximum density is 0.50 dwelling units per acre. The applicant is proposing 17 lots with lot sizes ranging from 2 to 2.81 acres at a density of 0.42 dwelling units per acre, all of the lots meet or exceed the minimum zoning standards in the R-A Zone. The subject property is in water Category 4 and sewer Category

PGCPB No. 13-19  
 File No. 4-12018  
 Page 7

6, therefore, the proposed residential lots will be served with public water and have septic fields. Two of the lots (Lots 1 and 6) are proposed to have direct access to Trumps Hill Road. Three of the lots (Lots 7, 12, and 17) are proposed to have direct access via a proposed 60-foot-wide right-of-way, Windgate Place, to be dedicated to public use. The proposed public street will extend north into the property from Trumps Hill Road, directly north from it's the intersection with Weathervane Lane. The public street will terminate on the site with a cul-de-sac of approximately 120 feet in diameter. Twelve of the lots (Lots 2 through 5, Lots 8 through 11, and Lots 13 through 16) will have access via three separate private rights-of-way created pursuant to Section 24 128(b)(1) of the Subdivision Regulations. The proposed subdivision does not propose any common homeowner space or parcels and, therefore, a homeowners association is not required.

The subject property abuts Woodstock Historic Site (82A-13) on Parcel 106 to the north of the property. Therefore a Type "E" Section 4.7 bufferyard is required pursuant to the 2010 *Prince's George's County Landscape Manual* along the entire shared property line with the designated historic property. The applicant has proposed the bufferyard to be on Outlot A (1.12 acres), and Outlot A is proposed to be conveyed to an adjoining property owner, Parcel 106, Woodstock historic site. If Outlot A is to be conveyed to Parcel 106, then a bufferyard easement should be required to ensure the integrity of the bufferyard being off-site and the easement should be recorded and a note placed on the plat. If Parcel 106 does not agree to the conveyance of Outlot A, then Outlot A should be incorporated into Lot 16 and the bufferyard requirement will be reviewed at the time of building permits for Lot 16. Outlot A shows an existing driveway onto Robert Crain Highway (US 301), which serves the abutting Parcel 106 and is to remain. If Outlot A is to be incorporated into Lot 16, then the liber/folio of the existing access easement that serves Parcel 106 should be noted on the final plat for Lot 16. The applicant should provide the disposition of Outlot A prior to approval of the final plat.

It is noted that on November 20, 2012, the Prince George's County Council adopted Council Resolution CR-83-2012 and Council Bill CB-104-2012, which adopted the county's Sustainable Growth Tier (SGT) Map pursuant to Section 9-206 of the Environmental Article of the Maryland Annotated Code. The map identifies where major and minor residential subdivision may develop and the type of sewage disposal system that will serve them. Specifically, in this instance, Section 24-122.01(b)(2) of the Subdivision Regulations provides:

- (2) **Applications filed on or after October 1, 2012, pursuant to the Sustainable Growth Act Section 9-206 of the Environment Article, the following restrictions apply to residential subdivisions:**
  - (i) **Tier I All lots shall be served by public sewer.**
  - (ii) **Tier II All lots shall be served by public sewer; or if the subdivision is a minor subdivision it may be served by on-site sewer disposal systems.**
  - (iii) **Tier III All lots shall be served by on-site sewer disposal systems.**

PGCPB No. 13-19  
 File No. 4-12018  
 Page 8

- (iv) **Tier IV All lots in a minor subdivision shall be served by on-site sewer disposal systems. A residential major subdivision served by on-site sewer disposal systems is not permitted.**

The subject property is located in SGT II, which requires lots to be served by public sewer or a minor subdivision of four lots may be served by on-site sewer disposal systems. This preliminary plan was accepted on September 27, 2012, which is prior to the October 1, 2012 applicability of the SGT Tiers and, therefore, the Sustainable Growth Act is not applicable to this preliminary plan.

3. **Setting**—The subject property is located along the west side of Trumps Hill Road and abuts the east side of Crain Highway (US 301), approximately 900 feet north of the intersection of these two roads. Located in the Developing Tier, the subject property is currently undeveloped and wooded. All abutting properties are also zoned R-A. Most are undeveloped or wooded with single-family detached dwelling units on the parcels. The property abuts National Register historic site Woodstock (82A-13) to the north on Parcel 106.
4. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development:

	EXISTING	APPROVED
Zone	R-A	R-A
Use(s)	Undeveloped	Residential
Acreage	40.87	40.87
Lots	0	17
Outlots	0	1
Parcels	1	0
Dwelling Units	0	17
Public Safety Mitigation Fee	No	No
Variance	No	Yes
		25-122(b)(1)(G)
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on October 12, 2012.

5. **Community Planning**—The 2002 *Prince George's County Approved General Plan* designates the subject property within 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 preliminary plan is consistent with the 2002 General Plan Development Pattern policies for the Developed Tier by



PGCPB No. 13-19

File No. 4-12018

Page 9

proposing moderate-density single-family residential development. Approval of this application does not violate the General Plan's growth goals for the year 2025, upon review of Prince George's County's current General Plan Growth Policy Update.

The land use proposed by this preliminary plan conforms to the rural residential land use recommendations of the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area* (Subregion VI Master Plan and SMA) for the Marlton area of Planning Area 82A. The Subregion VI Master Plan and SMA is the prevailing plan for the area in light of the recent court order (Case Numbers CAL 09-31402 and CAL 09-32017) that overturned the 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment. The Subregion VI Master Plan and SMA retained the property in the R-A Zone.

6. **Urban Design**—The 2010 *Prince George's County Landscape Manual* (Landscape Manual) and the Zoning Ordinance contain site design guidelines and requirements that are applicable to the development of this property.

**Conformance with the 2010 Prince George's County Landscape Manual**

The R-A zoned lots, with the proposed single-family detached homes, are subject to the requirements of Section 4.1, Residential Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets of the Landscape Manual. Compliance with these requirements will be reviewed at the time of permit review.

The proposed development is adjoining the right-of-way of Crain Highway (US 301), a designated freeway. In accordance with Section 4.6, a minimum 75-foot-wide bufferyard, to be landscaped with 8 shade trees, 20 evergreen trees, and 40 shrubs per 100 linear feet of property line adjacent to the street, is required on the rear yards of all single-family detached lots that abut US 301. Typically, it is recommended that this required bufferyard not be located on each individual lot. However, it is acceptable to have the bufferyard on the lots in this case due to the large size of the lots and the fact that the majority of the bufferyard contains environmental features and is to remain undisturbed and wooded.

In accordance with Section 4.6, a minimum 20-foot-wide buffer, planted with 80 plant units per 100 linear feet, is required along the property's entire frontage on Trumps Hill Road, a designated historic road, with the exception of driveways and possible entrance features as reflected on the preliminary plan of subdivision.

In accordance with Section 4.7, a Type "E" buffer is required along the entire shared property line with the designated historic property located to the north of the property. This bufferyard is labeled correctly on the plan; however, final compliance with this requirement will be reviewed at the time of permit review. The applicant has proposed the bufferyard to be on Outlot A (1.12 acres) and Outlot A is proposed to be conveyed to an adjoining property owner, Parcel 106, Woodstock Historic Site (82A-13). If Outlot A is to be conveyed to Parcel 106, then a bufferyard easement

PGCPB No. 13-19

File No. 4-12018

Page 10

should be required to ensure the integrity of the bufferyard being off-site and the easement should be recorded and a note placed on the plat.

**Conformance with the Zoning Ordinance**

The proposed lots for residential development meet all of the regulations for one-family detached dwellings in the R-A Zone as stated in Section 27-442, Regulations for the R-A Zone.

7. **Environmental**—A signed Natural Resources Inventory (NRI-141-05-02) and Type 1 Tree Conservation Plan (TCP1-012-06) for the subject property have been received and reviewed. The project is subject to the environmental regulations that came into effect on September 1, 2010 because the application is for a new preliminary plan of subdivision.

**Conformance with the Master Plan**

In the 1993 Subregion VI Master Plan and SMA, which is now almost 20 years old, the Environmental Envelope section contains goals, objectives, and guidelines. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

1. **An open space and conservation network, based on existing soil conditions, slopes, watercourses, vegetation, natural ecological features, and estimated future population needs, should be established and maintained.**

The site contains regulated environmental features including wetlands, streams and 100- year floodplains, and associated buffers including adjacent slopes. Section 24-130 of the Subdivision Regulations required the protection of regulation environmental features to the fullest extent possible, and is discussed further in the Primary Management Area Finding.

2. **Developers shall be encouraged to utilize the Comprehensive Design Ordinance, the cluster provisions and site plan review provisions of the subdivision regulations and other innovative techniques that ensure responsible environmental consideration.**

The application site is not zoned for the Comprehensive Design Ordinance, and cluster development option is no longer available. Responsible environmental consideration has been met through application of the most current requirements of Subtitle 24 of the Prince George's County Code for the protection of regulated environmental features.

3. **Land dedicated in accordance with the subdivision regulations for the provision of needed recreational facilities should not consist solely of floodplains or other parts of the Natural Reserve Area.**

No land is being dedicated for recreational facilities with the current application, as discussed further in the Parks and Recreation finding.

PGCPB No. 13-19

File No. 4-12018

Page 11

4. **The responsibility for environmentally sound development practices should apply equally to private and public interests; decisions concerning the selection and use of properties should be based on environmental considerations.**

Section 24-130 of the Subdivision Regulations, the Woodland and Wildlife Habitat Conservation Ordinance (WCO), and implementation of the Countywide Green Infrastructure Plan will focus development in an environmentally-sound manner.

5. **Developers shall be encouraged to capitalize on natural assets through the retention and protection of trees, streams and other ecological features.**

The tree conservation plan (TCP) shows minimization of impacts to sensitive environmental features and shows preservation of contiguous woodland.

6. **Woodlands associated with floodplains, wetlands, stream corridors and steep slopes shall be given priority for preservation.**

This guideline mirrors the requirements of the WCO. The TCP proposes preservation of wooded stream corridors and steep slopes within the delineated PMA.

7. **To the extent practicable, large contiguous tracts of woodland should be conserved in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio.**

This guideline is a standard practice for all TCPs. The TCP shows preservation of contiguous woodland, avoids creating forest fragments, and minimizes reduction in the overall forest interior area or an increase in the edge/area ratio.

8. **The Natural Reserve Areas, containing floodplain and other areas unsuitable for development should be restricted from development except for agricultural, recreational and similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.**

The natural reserve areas described in the master plan are areas that have been superseded by the regulated areas in the Countywide Green Infrastructure Plan. There are extensive regulated areas designated in the plan both on and adjacent to the site.

9. **All development proposals should provide effective means for the preservation and protection of Natural Reserve Areas, the development plans for lands containing open space and conservation areas should specify how and by whom these areas will be maintained.**

The preservation of sensitive environmental features will be assured by the placement of conservation easements.

PGCPB No. 13-19

File No. 4-12018

Page 12

- 10. Limited development should be permitted in Conditional Reserve Areas, based on the significant physiographic constraints and natural processes of the land.**

The Subregion VI Master Plan and SMA does not identify any areas of conditional reserve on the subject property; however, the Countywide Green Infrastructure Plan superseded the master plan for these designations when it was adopted in 2005. The site contains no features identified in the Countywide Green Infrastructure Plan.

- 11. In the Perceptual Liability Areas, land uses such as schools, residences, nursing homes, and libraries that are sensitive to noise intrusion, air pollution and other characteristics of excessive vehicular traffic should be protected by suitable construction techniques and by the enforcement of legally mandated standards.**

Crain Highway (US 301) is an adjacent source of traffic-generated noise; traffic-generated noise is evaluated in the Environmental Review section below.

- 12. Developers shall be encouraged to include careful site planning and construction techniques which are designed to reduce the adverse impact of point and nonpoint source noise that exceeds the State's current maximum allowable levels for receiving land uses.**

Crain Highway (US 301) is an adjacent source of traffic-generated noise; traffic-generated noise will be evaluated in the Environmental Review section below. All of the lots proposed conform to the 300-foot minimum lot depth required, pursuant to Section 24-122(a)(4) of the Subdivision Regulations.

- 13. Farming conservation measures such as diversions, terraces, and grassed waterways in conjunction with contour strip cropping and crop rotations should be implemented.**

No farming is proposed.

- 14. Citizens, developers and others should be encouraged to seek current information on the area's sensitive environmental condition, and on all aspects of related regulatory systems and functional programs from the appropriate local, State and Federal agencies.**

Information available at PGAtlas.com provides generalized information regarding sensitive environmental features of the region, and the natural resources inventory (NRI) submitted provides detailed information regarding the subject property. The NRI was used to formulate the appropriate areas for development on the site.

PGCPB No. 13-19  
File No. 4-12018  
Page 13

The proposal is in general conformance with the Subregion VI Master Plan and SMA for the reasons stated.

**Conformance with the Countywide Green Infrastructure Plan**

The subject property is entirely outside of the designated network of the Countywide Green Infrastructure Plan. The site contains regulated environmental features and is delineated as the primary management area (PMA) on the plans.

**Conformance with the Master Plan of Transportation: Special Roadways**

The preservation of existing roads as historic and scenic assets is important to retaining the heritage and community character of the county. Several reports have inventoried the county's historic and scenic roads, including the 1984 Scenic Roads Study and the 1992 *Prince George's County Historic Sites and Districts Plan*. Other roads have been designated in area master plans, the General Plan, or through separate resolutions of the County Council. The existing scenic and historic roads, the scenic byway, and the parkways are shown on the Special Roadways Map found in the 2009 *Approved Countywide Master Plan of Transportation (MPOT)*.

Conservation and enhancement of these specially designated roadways is intended to provide safe and enjoyable travel, while preserving the scenic and historic resources both within the rights-of-way and on adjacent land. It is also necessary that all road designs and construction provide, insofar as practicable, a consistently safe but visually varied environment that is pleasing to all road users and adjacent property owners. The following applicable policies and strategies for special roadways are included in the MPOT:

**POLICY 1: Conserve and enhance the scenic and historic values along special roadways.**

**Strategies**

2. **Require submission of an inventory of scenic and historic features with all applications that propose work within the right-of-way of a designated roadway.**
3. **Utilize the "Guidelines for the Design of Scenic and Historic Roadways in Prince George's County, Maryland" (DPW&T, 2006) when evaluating applications within the rights-of-way of scenic and historic roadways.**
4. **Consider a variety of techniques in order to protect the scenic and historic qualities of the designated roads during the review of applications that involve work within the right-of-way of a designated roadway. These techniques include alternative ways to circulate traffic; the use of the historic road section as one leg of a needed dual highway; provision of bypass roads; and limiting certain types of development and signs in the viewshed.**

PGCPB No. 13-19

File No. 4-12018

Page 14

7. **Utilize existing County Code provisions for scenic easement tax credits by establishing a voluntary easement program to protect viewsheds along designated roadways.**

**POLICY 2: Conserve and enhance the viewsheds along designated roadways.**

**Strategies**

1. **Require submission of an inventory of scenic and historic features with all applications that propose work adjacent to the right-of-way of a designated roadway.**
2. **Require the conservation and enhancement of the existing viewsheds of designated roads to the fullest extent possible during the review of land development or permit applications, whichever comes first. Elements to be considered shall include views of structures from the roadway; design character and materials of constructed features; preservation of existing vegetation, slopes and tree tunnels; use of scenic easements; and limited access points.**
3. **Develop guidelines for the design of activities adjacent to designated roadways to include building setbacks, landscaping, scenic easements, and utility clearing.**

Conservation and enhancement of historic Trumps Hill Road is discussed in the Environmental Review section below.

**Environmental Review**

A Natural Resources Inventory, NRI-141-05-02, was approved for the subject property on September 21, 2012. A review of the available information indicates that streams, wetlands, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are found to occur on the property. Unnamed tributaries to Charles Branch run along the west side of the property, with intrusions onto the site. The environmental features of the site are correctly delineated on the preliminary plan and Type 1 tree conservation plan. No further information is required with regard to the NRI.

The soils found to occur according to the Web Soil Survey is Marr-Dodon, which are not hydric and exhibit few development difficulties. Marlboro clay is not expected to outcrop on this property. This information is provided for the applicant's benefit. During the review of building permits, the Department of Environmental Resources may require a soils study addressing soil limitations with respect to the construction of homes.

According to the Sensitive Species Protection Review Area (SSPRA) GIS layer, obtained from the Maryland Department of Natural Resources, Natural Heritage Program, no endangered species are found to occur in the vicinity. The property is located in the Patuxent River watershed and basin. The property is located in the Developing Tier as reflected in the General Plan. According to the

PGCPB No. 13-19  
File No. 4-12018  
Page 15

Countywide Green Infrastructure Plan, no regulated areas, evaluation areas, or network gaps exist on the site.

This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because it is greater than 40,000 square feet of gross tract area, there are more than 10,000 square feet of existing woodland, and more than 5,000 square feet of woodland clearing is proposed. A Type 1 Tree Conservation Plan, TCP1-012-06, was submitted with the application and has been reviewed. The woodland conservation threshold for this site is 20.04 acres (50 percent of the net tract) plus additional acres due to removal, for a total minimum requirement of 23.37 acres.

The TCP1 proposes to meet the woodland conservation requirement with 18.95 acres of on-site preservation on private lots, 1.09 acres of on-site afforestation/reforestation, and 3.57 acres of off-site mitigation. In residential development, it is the policy of the Environmental Planning Section that, at a minimum, the woodland conservation threshold be met on-site. The revised TCP1 shows a minimum of 20.04 acres of woodland conservation provided on-site. The TCP1 should include a table describing the individual requirements by lot for the woodland conservation proposal. The table should also demonstrate the net lot area outside the PMA, as required under Section 24-130(b)(5) of the Subdivision Regulations.

Development of this subdivision shall be in compliance with Type 1 Tree Conservation Plan TCP1-012-06, approved as part of this application. After September 1, 2010, pursuant to Section 25-122(d)(1)(B), woodland preserved, planted, or regenerated on-site shall be placed in a woodland conservation easement recorded in land records and the liber/folio of the easement indicated on all plans of development. No development is proposed at this time, so preparation of a Type 2 tree conservation plan (TCP2) is not required prior to final plat, and a woodland conservation easement cannot be recorded until a TCP2 is prepared. When a TCP2 is prepared, prior to signature approval, recording of a woodland conservation easement in the land records will be required and the liber/folio of the easement will be placed on the TCP2.

The portion of Trumps Hill Road that fronts on the subject property is a designated historic road in the *Historic Sites and District Plan*. This should be indicated by note on the preliminary plan. Any improvements within the right-of-way of an historic road are subject to approval by the Department of Public Works and Transportation (DPW&T) under the 1994 *Design Guidelines and Standards for Scenic and Historic Roads, Prince George's County*.

An inventory of significant visual features for the right-of-way and site was submitted to provide a baseline for the review of the historic road viewshed. Prior discussions between staff and the applicant resulted in general agreement over the driveway access points currently shown on the preliminary plan and TCP1. To preserve the viewshed along the historic road, a scenic easement, with a minimum width of 40 feet located outside of the ultimate right-of-way and exclusive of the public utility easement, has been delineated on the preliminary plan and TCP1. Within the scenic easement, protection of significant visual elements, preservation of existing woodlands, afforestation of the scenic easement, limiting of access points, and supplemental landscaping is

PGCPB No. 13-19

File No. 4-12018

Page 16

appropriate to conserve and enhance the viewshed of the historic road. The treatment of the houses that have a rear surface facing the road was previously a concern. As a result, all the rears of houses within 200 feet of the interior edge of the scenic easement have not been oriented toward the road.

The site is also located adjacent to Crain Highway (US 301), which is a master-planned freeway with resultant transportation noise impacts. Pursuant to Section 24-121(a)(4) of the Subdivision Regulations, residential lots adjacent to an existing or planned transit right-of-way shall be platted with a lot depth of 300 feet with adequate protection from traffic nuisances. All lots on the subject property are in compliance with minimum lot depth requirements for lots adjacent to a road classified as a freeway (US 301).

As discussed, this property abuts US 301, a known transportation-related noise generator. The location of the 65 dBA Ldn noise contour has been shown on the preliminary plan and the TCP1. The 65 dBA Ldn noise contour has been located at 531 feet from the centerline of the northbound lanes of US 301 based on the Environmental Planning Section's noise model using the ultimate build-out traffic count for US 301. Five dwellings units were proposed within the modeled 65 dBA Ldn noise contour. The required maximum interior noise level for these units can be achieved through construction techniques to the building shell which would reduce the interior noise level to no more than 45 dBA Ldn, which is recommended.

Of additional concern is mitigation of the noise level in exterior yard areas to no more than 65 dBA Ldn. The applicant was asked to perform a more detailed Phase I noise evaluation which takes into account the topography of the site to see if the noise contour is less extensive than the Environmental Planning Section's noise model would indicate and noise mitigation would not be required; or a Phase II noise model indicating how exterior noise levels could be mitigated to 65 dBA Ldn or less in active rear yard areas.

A report titled "US Route 301 Traffic Noise Evaluation, Magruder West, Prince George's County, Maryland" prepared by Michael A. Staiano of Staiano Engineering, Inc. dated January 28, 2013 was submitted on January 31, 2013. Sound levels were evaluated at eight proposed house sites within the Magruder West development with respect to State of Maryland residential noise standards. Calculations were based upon expected 2018 traffic for US 301 using the Federal Highway Administration Traffic Noise Model computer program with a detailed geometric representation of the site features and topography.

The initial noise predictions with first floor decks found sound levels exceeding state standards. As a result, the first floor decks were eliminated in favor of walk-out basement patios. As a result, day-night (Ldn) average sound levels exceeded the state exterior noise standard only on Lot 3. A barrier was recommended to mitigate noise levels to meet the outdoor requirement at all locations. The necessary barrier is approximately 194 feet long and between 10 and 11 feet in height.



PGCPB No. 13-19

File No. 4-12018

Page 17

The report has provided a quantification of the noise impacts, and presents one mitigation technique, but how these will be applied to the specific site in question has not been determined. A finding cannot be made at this time that adequate noise mitigation can be provided for Lot 3 using a noise barrier, where the barrier will with be placed, what impacts a noise barrier would have on usable lot area, or whether additional mitigation techniques may be necessary, and the appearance of the noise barrier from within the development and from US 301. The land area of Lot 3 should be divided between abutting Lots 2 and 4, in accordance with Staff Exhibit A, if at the time of the limited detailed site plan noise mitigation is not adequately addressed without the use of a noise wall.

In the Primary Management Area (PMA) finding below, it is recommended that Lot 3 be removed from the preliminary plan because the contiguous net lot area located outside the PMA was insufficient to provide for reasonable development of the lot (Section 24-130(b)(5)). The exposure to noise impacts with insufficient area to provide for mitigation further supports removal of Lot 3, unless determined at the time of DSP that it can remain.

It is also noted that Lot 3 was previously accessed from a 25-foot-wide joint access easement, which can serve up to four lots. The elimination of Lot 3 from this access point would allow Lot 1 to be accessed from the joint access easement and allow the separate driveway access point onto Trumps Hill Road to be eliminated, to provide for a continuous scenic easement along the frontage of Lot 1. Staff Exhibit A removes Lot 3 and redesigns the lot layout for Lots 2 and 4, and redirects access for Lot 1 internally in the subdivision.

8. **Primary Management Area (PMA)**—This site contains regulated environmental features that are required to be protected under Section 24-130 of the Subdivision Regulations. The on-site regulated environmental features include wetlands, streams, and 100-year floodplain and associated buffers including adjacent slopes in excess of 15 percent. Section 24-130(b)(5) states:

- (5) **Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.**

The definition of “impact” pursuant to Section 24-101(b)(15.1) of the Subdivision Regulations states:

- (15.1) **Impact: An impact of a regulated environmental feature is the physical disturbance or the inclusion of a regulated feature within the required net lot area.**

PGCPB No. 13-19

File No. 4-12018

Page 18

Under this definition, two types of impacts have been identified on this application. The first is a permanent impact for the placement of a septic field within the delineated primary management area (PMA) on Lot 14. The second is a permanent impact on nine lots for the encumbrance by the delineated PMA on the required net lot area of two acres in the R-A Zone. Pursuant to Section 24-130, the PMA should be preserved to the fullest extent possible. If impacts to the PMA cannot be eliminated, it is necessary to identify each impact and submit a letter of justification for the temporary and/or permanent impacts in accordance with Section 24-130(b)(5). A statement of justification for the proposed impact to the PMA was submitted by the applicant on January 31, 2013.

- **Impact 1:** An area of the PMA located on **Lot 14** is impacted by a proposed septic field easement which is necessary for the development of the lot and which will result in a permanent impact of 650 square feet.

#### **Avoidance Analysis for Impact 1**

The applicant argues that there is a limited amount of soil on the site suitable for use for septic disposal systems. These soils are generally located along the ridges or high areas of the site and the use of much of these soils is lost due to setback requirements from houses, lot lines, roads, and driveways. As larger areas of suitable soils are divided into individual lots, significant areas are lost to setbacks and inefficiencies.

The applicant states that, when the septic areas for this site were originally delineated, the 15 percent slopes were not included within the PMA. Changes to the stream buffer requirements which became effective September 1, 2010 have resulted in a re-delineation of the PMA which has resulted in an impact for the location of the septic field which was previously found acceptable by the Prince George's County Health Department. The impact is located 90 feet from the minimum stream buffer required in the Developing Tier, which is 75 feet from the top of bank of the stream, 150 feet from the 100-year floodplain, and 165 feet from the top of stream bank.

#### **Minimization Analysis for Impact 1**

The applicant states that, with approval of the Health Department, it may be possible to reduce the septic recovery area by 314 square feet to the "minimum" size of 10,000 square feet, which includes one initial system and two back-up systems. This would reduce the permanent impact to 336 feet. The applicant suggests that the portion of the septic field located in the PMA could be specified as part of the tertiary septic field, and only used in case of failure of the primary and tertiary system, which is unlikely.

The option of reducing the size of the septic area by 314 square feet, which would reduce the impact by 336 square feet, should be discussed with the Health Department and implemented because it would further minimize the size of the impact requested. This impact is supported if it is reduced to the fullest extent possible as proposed by the applicant.

PGCPB No. 13-19  
File No. 4-12018  
Page 19

#### **Summary for Impact 1**

Overall, it is found that the permanent impact of PMA due to the location of a tertiary septic field on Lot 14 with the consent of the Health Department, demonstrates the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible in accordance with Section 24-130(b) and is approved.

- **Impact 2:** This permanent impact is for the inclusion of PMA in the net lot area of five lots (Lots 2, 3, 5, 10, and 11) on the subject application and were all analyzed under this finding. The definition of "impact" pursuant to Section 24-101(b)(15.1) states:

**(15.1) Impact: An impact of a regulated environmental feature is the physical disturbance or the inclusion of a regulated feature within the required net lot area.**

Net lot area is defined in the Zoning Ordinance as follows:

#### **(161) Net Lot Area:**

- (A) The total contiguous area included within the "Lot Lines" of a "Lot," excluding:**
  - (i) "Alleys," "Streets," and other public ways; and**
  - (ii) Land lying within a "One Hundred (100) Year Floodplain," except as follows. In the R-A, O-S, V-M, and V-L Zones, any part of the "Lot" exceeding forty thousand (40,000) contiguous square feet may be within the "One Hundred (100) Year Floodplain."**

Applying this definition to the current application, the lots which include PMA on this site have two differing net lot area requirements. The lots which include 100-year floodplain (Lots 4, 13, 14, and 16) have a net lot area requirement of 40,000 square feet of contiguous area outside the delineated PMA. Lots 4, 13, 14, and 16 have more than 40,000 square feet of contiguous net lot area outside the delineated PMA as required by Section 24-130(b)(5) and are, therefore, not subject to a justification of impacts to regulated environmental features for PMA on the net lot area.

Five of the 17 lots proposed in the subject application include areas of PMA, but no 100-year floodplain and, therefore, have a required net lot area of two acres (87,120 square feet), and must justify impacts to the net lot area due to the presence of PMA. These lots are listed in the following table, which indicates the gross lot, the amount of net lot area outside the PMA, the net lot area within the PMA, and the proposed percentage of net lot area encumbered by PMA.

PGCPB No. 13-19

File No. 4-12018

Page 20

<b>Lots With "Net Lot Area" within the PMA</b>					
<b>Lot #</b>	<b>Lot Area (gross acres)</b>	<b>Required net lot area outside of PMA (acres)</b>	<b>Proposed Net Lot Area outside of PMA (acres)</b>	<b>Proposed Net Lot Area within PMA (acres)</b>	<b>Percent of net Lot Encumbered by PMA</b>
2	2.35	2.00	1.09	0.91	46.0
3	2.07	2.00	1.23	0.77	38.5
5	2.32	2.00	1.26	0.74	37.0
10	2.07	2.00	1.65	0.35	17.5
11	2.12	2.00	1.91	0.09	0.45

### **Avoidance Analysis for Impact 2**

The applicant argues that because of the site constraints, including the significant amount of PMA located on the property, some encroachment of the PMA on the required net lot area of two acres per lot is "inevitable." In order to develop the 17 lots proposed, a minimum of 34 acres of net lot area is needed. Seven and a half acres of the total 40.87 acres is in the PMA, only 33.34 acres is available for development, and avoidance is not possible. This is further exacerbated when Outlot A (1.12 acres) is subtracted to provide a bufferyard adjacent to the historic Woodstock site. The applicant states that 17 lots are three lots less than the allowable zoning density.

Although PMA is proposed to be included in the net lot area on five of the lots, no temporary or permanent physical impacts to the PMA ground disturbance are proposed on the lots requiring the two-acre net tract area. Lots 2, 5, 10, and 11 all have a contiguous net lot area of greater than 47,480 square feet of area (1.09 acres) located outside the PMA, which exceeds the 40,000 square feet of contiguous net tract area required and provided on adjacent Lots 4, 13, 14, and 16, and provides for sufficient development area.

Lot 3 has a total of 1.23 acres of net lot area overall, but it is divided into two by the stream buffer, and the contiguous net lot area associated with the site development area is approximately 34,000 square feet based on planimeter measurement. This is significantly smaller than the contiguous lot area provided on any other lot within the subdivision. Reduction of the contiguous net tract provided outside the PMA below 40,000 square feet would need to demonstrate that there is sufficient contiguous net tract area for reasonable development outside the regulated feature.

### **Minimization Analysis for Impact 2**

The applicant states that the total tract area of the site is 40.87 acres and the net tract area of 40.07 acres should theoretically yield 20 lots at a density of 0.5 lots per acre, but site design proposes only 17 lots. The applicant argues that impacts have been minimized to the extent possible since each of the individual lots contains one acre (43,560 square feet) or more of land that is located outside the PMA and full preservation of the regulated

PGCPB No. 13-19  
File No. 4-12018  
Page 21

environmental features has been achieved, consistent with Section 24-130(b)(5) of the Subdivision Regulations.

It was found that impacts can be minimized to the fullest extent possible if a minimum contiguous net lot area of not less than 40,000 square feet is provided, but does not support a reduction of the net lot area below 40,000 square feet unless the applicant can demonstrate that there is sufficient net lot area to demonstrate reasonable development of the property. This relates to the configuration of that building envelope being adequate to provide for grading and house siting, for the reasonable development and use of the property without impacting the PMA.

#### **Demonstration of Sufficiency Analysis for Impact 2**

The applicant states that the preliminary plan and TCPI demonstrate that there is sufficient net lot area on the five lots which contain PMA for the reasonable development of the lot outside the regulated feature (PMA).

Four of the lots have more than one acre of contiguous land area exclusive of any land with regulated environmental features and in a configuration which supports reasonable development of the property, and have been provided with adequate access, an adequate septic recovery area, reasonable grading, and a 5,000-square-foot house pad site with adequate clearance around the dwelling to meet the woodland conservation design guidelines.

Lot 3 provides a contiguous net lot area of less than 40,000 square feet, and the limited size of the lot has resulted in the footprint for the dwelling being proposed at a location where the noise impact to exterior active yard area is 66 dBA Ldn, which is above acceptable noise standards. The proposed placement of a noise barrier, as previously discussed, further limits the active use area of Lot 3. Because of these restrictions, a finding cannot be made that reducing the contiguous net lot area on this lot to 34,000 square feet, and below 40,000 square feet is sufficient to support the reasonable development of the property (Section 24-101(b)(15.1)), without further analysis at the time of limited detailed site plan.

#### **Summary for Impact 2**

The applicant has demonstrated that Lots 2, 5, 10, and 11 which contain PMA within the net tract area of two acres contain a minimum of one acre of contiguous land area exclusive of and with regulated environmental features, and the TCPI and preliminary plan demonstrate that the necessary elements to support development can be provided with no disturbance to the PMA. All of the PMA area located on the four lots will be placed in a conservation easement to protect the regulated environmental features in a natural state to the fullest extent possible.

Lot 3 does not meet the minimum requirement for contiguous net tract area of one acre and the limited size of the contiguous net lot is insufficient to support reasonable

PGCPB No. 13-19

File No. 4-12018

Page 22

development of the property. The net lot area proposed is insufficient to move the proposed dwelling site further away from noise impacts associated with US 301 and fails to provide sufficient area for noise mitigation measures in its current location. Because of this restriction, a finding cannot be made that reducing the contiguous net lot area on this lot as proposed is sufficient to support reasonable development of the lot. Removal of this lot from the preliminary plan and reallocation of the associated land area outside of the PMA should allow the minimization of impacts on Lots 2 for the inclusion of PMA on the contiguous net lot area. This issue will be further analyzed at the time of limited detailed site plan. If sufficient justification is not provided the limited detailed site plan shall be revised in accordance with Staff Exhibit A.

#### **Primary Management Area Conclusions**

The proposed site design and the statement of justification show that the impacts proposed will provide the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible. The proposed impacts for the location of a tertiary septic field on Lot 14 and the inclusion of PMA on the net tract area of two acres, while maintaining sufficient contiguous lot area outside the PMA for **Lots 2, 5, 10, and 11**, are approved.

Lot 3 should demonstrate conformance with Section 24-130(a) at the time of limited detailed site plan by providing sufficient contiguous net lot area outside the PMA which would be necessary to support reasonable development of the lot, while addressing appropriate noise mitigation.

9. **Variance to Section 25-122(b)(1)(G)**—Type 1 tree conservation plan (TCP1) applications are required to meet all of the requirements of Subtitle 25, Division 2 (the Woodland and Wildlife Habitat Conservation Ordinance (WCO)), which includes the preservation of specimen trees pursuant to Section 25-122(b)(1)(G) which states:

**Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and 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.**

If after careful consideration has been given to preservation of the specimen trees there remains a need to remove any of the specimen trees, a variance from Section 25-122(b)(1)(G) is required. Applicants can request a variance from the provisions of the WCO provided all of the required findings in Section 25-119(d) can be met and the request is not less stringent than the requirements of the applicable provisions of the Code of Maryland Regulations (COMAR). An application for a variance must be accompanied by a letter of justification stating the reasons for the request and how the request meets each of the required findings.

A Subtitle 25 variance application and a statement of justification in support of a variance were stamped as received by the Environmental Planning Section on January 31, 2013.

PGCPB No. 13-19

File No. 4-12018

Page 23

This site is currently zoned R-A and is intended for development with public water and private septic systems. The natural resources inventory (NRI) and TCP1 indicate that the site contains 61 specimen trees, and the applicant has submitted a variance application to remove 15 specimen trees as shown in the table below.

Specimen Trees to be Removed					
Tree ID	Common name	Species name	DBH	Condition	Disposition
<b>Road Widening</b>					
34	Sweetgum	Liquidambar styraciflua	33.2	Fair	Remove
35	Yellow poplar	Liriodendron tulipifera	39.2	Fair	Remove
36	Yellow poplar	Liriodendron tulipifera	36.5	Fair	Remove
61	Yellow poplar	Liriodendron tulipifera	34.5	Poor	Remove
<b>Lot 1</b>					
37	Yellow poplar	Liriodendron tulipifera	38.1	Fair	Remove
38	Yellow poplar	Liriodendron tulipifera	44.1	Poor	Remove
58	Yellow poplar	Liriodendron tulipifera	33.5	Fair	Remove
<b>Lot 16</b>					
2	Yellow poplar	Liriodendron tulipifera	34.5	Fair	Remove
3	Yellow poplar	Liriodendron tulipifera	34.7	Fair	Remove
4	Yellow poplar	Liriodendron tulipifera	37.7	Good	Remove
5	Yellow poplar	Liriodendron tulipifera	39.9	Poor	Remove
46B	Yellow poplar	Liriodendron tulipifera	30.7	Good	Remove
47B			38.2	Poor	Remove
48A	Yellow poplar	Liriodendron tulipifera	33.2	Fair	Remove
<b>Lot 17</b>					
62	Sweetgum	Liquidambar styraciflua	31.5	Poor	Remove

Section 25-119(d)(1) of the WCO contains six required findings [text in **bold**] to be made before a variance can be granted. The statement of justification submitted seeks to address the required findings for the proposed removal of 15 of the 61 specimen trees identified on the site as a group. This approach is acceptable to the analysis because they have similar concerns regarding their location, species, and condition.

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

PGCPB No. 13-19

File No. 4-12018

Page 24

The applicant states that the project site is bounded along the western edge by Crain Highway (US 301), classified as a freeway, and on the southeast by Trumps Hill Road, a historic road. The western half of the northwestern edge is bounded by a scenic and historic site. These features comprise 80 percent of the site boundary and all have setbacks and restrictions on the development of the site, pushing development away from the edge toward the center. In addition, regulated environmental features and noise impact the edge along US 301 and reach into the center of the site further restricting development. While public sewer is available on the other side of Trumps Hill Road (a ridge line), it is not available for this site and individual septic systems are required. The soils suitable for septic systems are generally located on the ridge lines and higher elevations, leaving the side slopes between the ridges and regulated environmental features in the lowlands as the only areas left for homes and access ways (roads and driveways). The variance requested is for the removal of 15 of the 61 specimen trees located on the site. The applicant proposes that the special conditions described above have caused unwarranted hardships to the retention of specimen trees which, for the most part, are not high quality.

**Road Widening:** Four of the specimen trees (ST-34, ST-35, ST-36, and ST-61) are located within the proposed widening of the right-of-way for Trumps Hill Road which is required by DPW&T for adequate public facility reasons. These trees within the right-of-way improvements are all in poor to fair condition and are species that are known to be intolerant of grading and construction within their critical root zone. The alignment and curvature of the existing roadway make retention of the specimen trees practicable based on the alignment of the proposed right-of-way.

The four specimen trees located within the right-of-way cannot be avoided by avoidance or minimization due to the existing location of the right-of-way and the required development standards for road improvements required by DPW&T, and supports the variance request.

**Lot 1:** Three of the specimen trees (ST-37, ST-38, and ST-58) are located on Lot 1 and have been evaluated as in poor to fair condition. Again, these species are known to be intolerant to grading. There is potential for the trees to be preserved if the dwelling was located closer to Trumps Hill Road, but Trumps Hill Road is a historic road and the building restriction has been pushed as deep into the lot as possible to allow for a 40-foot-wide scenic easement along the frontage of the property. Because of the poor quality of the specimen trees, which are rated poor to fair, setting back the dwelling from the historic road and the retention of existing trees in a scenic buffer along the road was determined to provide a greater public benefit, and it is supported for the removal of the three trees.

The removal of the three specimen trees is supportable because of their poor to fair condition, grading proposed within the critical root zone for the 25-foot-wide joint access easement and the house footprint, the limited siting location for the dwelling on the lot



PGCPB No. 13-19  
File No. 4-12018  
Page 25

because of the location of suitable soils for a septic field, and the hazard these trees would pose to structures if retained.

**Lot 17:** A single specimen tree (ST-62) in the front yard of Lot 17 has some potential to be retained, but it is a sweetgum in poor condition located in a highly visible location from the dwelling. This tree drops a large number of spiky fruit (gum balls) which makes it undesirable for the front yard of a house and would most likely be removed in a short time by the home owner due to its appearance and fruiting nuisance.

**Lot 16:** Seven of the specimen trees proposed for removal are located on Lot 16. Five of the seven specimen trees (ST-2, ST-3, ST-5, ST-47B, and ST-48A) proposed for removal are in poor or fair condition, and only two (ST-4 and ST-46B) are considered to be in good condition.

Five of the seven specimen trees (ST-2, ST-3, ST-4, ST-46B, and ST-47B) are proposed to be removed for the access driveway. The applicant states that the location of the driveway cannot be shifted to the north because of the adjacent Woodstock historic site, which requires a 50-foot-wide landscaped bufferyard. The access drive also cannot be shifted further south sufficiently to save any of the specimen trees without reducing the gross tract area of Lot 15 as now configured at the minimum two-acre requirement.

The last two specimen trees (ST-48A and ST-5) are proposed for removal due to impacts by the house site. Specimen Tree ST-5 is in poor condition and located in the middle of the only portion of the lot available to site the house due to significant encumbrances on the lot as designed due to approved septic fields, landscape buffers, and an elongated access drive. This leaves the lot with very little active yard area and results in an awkward relation of the dwelling on Lot 16 to the adjacent historic site, and to neighboring lots on Lots 14 and 15.

Specimen Tree ST-48A is on the edge of the limit of disturbance required for grading associated with siting the house. This tree has some potential to be retained, but it is in fair condition and because poplars are very sensitive to disturbances to their root system, it is likely that after disturbance and exposure on the wooded edge, the tree would pose a hazard to the proposed dwelling in the near future.

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

The applicant states that on a difficult site, with external impacts from three sides, the applicant has proposed a development plan that provides for 17 lots of the 20 "allowed"; proposes no physical impacts to protected environmental features; provides on-site woodland conservation of 50 percent of the site; provides adequate septic fields for each lot; provides adequate house sites and access; provides buffering from adjacent roads and a historic site; among other requirements. Further loss of lots because of a failure to grant

PGCPB No. 13-19  
File No. 4-12018  
Page 26

variances for the removal of specimen trees could deprive the applicant of rights commonly enjoyed by others to developing the property in a reasonable manner, once the preliminary plan is revised in accordance with Staff Exhibit A.

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

Since variances can be granted for any property with similar problems and justifications, granting a variance here will not confer on the applicant any special privilege that would be denied to other applicants.

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

The conditions surrounding the property, the extent and configuration of the environmental features, the limits and location of soils suitable for septic systems, and the location of the specimen trees being impacted (all contributing to the need for this request) are not based on conditions or circumstances which are the result of actions by the applicant. The applicant has taken no action to date on the subject property.

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

This request does not arise from a condition relating to land use or building use on a neighboring property, which are undeveloped or single-family detached dwellings. The request to remove the trees does not arise from any condition on a neighboring property.

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

The stormwater management design for the site is required to meet the current regulations which require post-development conditions to mimic the pre-development condition of a site as "woods in good condition." Because the site must meet strict water quality and quantity requirements, the loss of specimen trees should not have a significant adverse impact on water quality. Specific requirements regarding stormwater management for the site will be further reviewed and approved by DPW&T. Since this property will be developed in keeping with an approved stormwater management plan, there will be no adverse effect on water quality.

#### **Variance Conclusions**

Based on the preceding analysis, the required findings of Section 25-119(d) have been addressed for the removal of 15 specimen trees based on the information provided, and the variance to remove **Specimen Trees 2, 3, 4, 5, 34, 35, 36, 37, 38, 46B, 47B, 48A, 58, 61, and 62** is approved.

PGCPB No. 13-19

File No. 4-12018

Page 27

10. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, 1602-2006-00, was approved on August 6, 2012 and is valid until May 4, 2013. The concept plan shows the use of dry wells, public storm drains, and will also be charged a fee-in-lieu of on-site stormwater management. The approved concept plan has conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with the approved plan or any subsequent revisions as approved by DPW&T.

The approved stormwater management (SWM) concept plan is required to be designed in conformance with any approved watershed management plan pursuant to Subtitle 32: Water Resources and Protection, Division 3: Stormwater Management Plan, Section 172: Watershed Management Planning of the County Code. As such, the requirement of Section 24-130(b)(4) of the Subdivision Regulations, which requires that a subdivision be in conformance with any watershed management plan, has been addressed with the approval of the SWM concept plan by DPW&T.

11. **Prince George's County Department of Parks and Recreation (DPR)**—In accordance with Section 24-134(a)(3)(B) of the Subdivision Regulations, the proposed application is exempt from mandatory dedication of parkland because the lots being created by this subdivision have a net acreage over one acre.
12. **Trails**—This proposed preliminary plan was reviewed for conformance with Section 24-123 of the Subdivision Regulations, the *Approved Countywide Master Plan of Transportation* (MPOT), and the appropriate area master plan in order to implement planned trails, bikeways, and pedestrian improvements.

The subject property is located along Trumps Hill Road, which is a designated scenic and historic roadway (or special roadway). Trumps Hill Road is open section with no sidewalks for its entire length, as are many of the other surrounding residential roadways. There are no master plan trails issues identified in either the MPOT or the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area*. The road sections approved are rural cross sections consistent with the surrounding communities. The cross section proposed for Trumps Hill Road is a rural secondary residential road with four-foot-wide shoulders on each side, which will adequately accommodate bicycle movement. No additional recommendations are necessary.

13. **Transportation**—The application is a preliminary plan of subdivision for a residential subdivision consisting of 17 lots for detached residences. Using trip generation rates in the "Transportation Review Guidelines, Part 1," it is determined that the proposed development would generate 13 AM (3 inbound and 10 outbound) and 15 PM (10 inbound and 5 outbound) weekday peak-hour vehicle trips. The traffic generated by the proposed preliminary plan would impact the following intersections, interchanges, and links in the transportation system:

- US 301 and Heathermore Boulevard (signalized)

PGCPB No. 13-19

File No. 4-12018

Page 28

The proposal is not of sufficient size that it will generate 50 or more vehicle trips, and so a full traffic study was not required. However, weekday traffic counts for the intersection of Crain Highway (US 301) and Heathermore Boulevard were requested for the purpose of making an adequacy finding. Counts dated September 2012 were submitted by the applicant for the critical intersection. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the Transportation Planning Section, consistent with the "Transportation Review Guidelines, Part 1."

While the intersection of US 301 and Trumps Hill Road to the south is closer, that intersection is unsignalized and, therefore, staff believes that traffic from this subdivision will be oriented to the north, and not to the south.

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 within any tier subject to meeting the geographical criteria in the Transportation Guidelines.

**Unsignalized intersections:** *The Highway Capacity Manual* (Transportation Research Board) procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds can suggest an unacceptable operating condition at unsignalized intersections. In response to such a determination, two additional tests are performed to determine whether traffic control or widening might resolve the issue. A final determination of traffic controls is made based on a traffic signal warrant study by the appropriate operating agency.

The following critical intersection identified above, when analyzed with existing traffic using counts taken in September 2012 and existing lane configurations, operates as follows:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
US 301 and Heathermore Boulevard	1,127	1,156	B	C

The critical intersection identified above is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program (CTP) or the Prince George's County Capital

PGCPB No. 13-19  
 File No. 4-12018  
 Page 29

Improvement Program (CIP). Background traffic has been developed for the study area. A total of 12 background developments whose impact would affect the critical intersection have been identified. Additionally, a growth rate of 1.0 percent per year was applied to the through traffic along US 301 for a timeframe of two years. The intersection under study, when analyzed with background traffic and existing lane configurations, operates as follows:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
US 301 and Heathermore Boulevard	1,242	1,323	C	D

The intersection under study, when analyzed with the programmed improvements and total future traffic, including the site trip generation as described above and a distribution of 68 percent north, 28 percent south, and 4 percent east and southeast, operates as follows:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
US 301 and Heathermore Boulevard	1,245	1,324	C	D

No inadequacies in either peak hour are noted in the table above. In accordance with this analysis, a trip cap consistent with the trip generation assumed for the site will be recommended.

Crain Highway (US 301) is a master plan freeway facility (F-10) with a coincident major collector facility (MC-602), as designated on the *Approved Countywide Master Plan of Transportation* (MPOT). Given that future widening in this area will occur on the west side of US 301, the existing right-of-way along US 301 is adequate to accommodate future master plan recommendations, so no further dedication is required. However, there shall be no direct driveway access from any lot onto US 301 with the exception of the existing driveway onto US 301, which serves abutting Parcel 106, which shall remain across Outlot A. A note to that effect will be required on the plat.

Trumps Hill Road is a designated historic roadway and is a county road. Any roadway improvements on Trumps Hill Road should be in accordance with DPW&T's Design Guidelines and Standards for Scenic and Historic Roads. The proposed road-widening dedication of approximately 29,185 square feet along Trumps Hill Road is acceptable and has been deemed acceptable by DPW&T.

Access is proposed from Trumps Hill Road via a system of driveways, easements, and a single public street. This is acceptable, and the access points have been deemed acceptable by DPW&T. Two of the lots (Lots 1 and 6) are proposed to have direct access to Trumps Hill Road. Three of the lots (Lots 7, 12, and 17) are proposed to have direct access via a proposed 60-foot-wide

PGCPB No. 13-19

File No. 4-12018

Page 30

right-of-way, Windgate Place, to be dedicated to public use. The proposed public street will extend north into the property from Trumps Hill Road directly north from the intersection with Weathervane Lane. The public street will terminate on the site with a cul-de-sac of approximately 120 feet in diameter. Twelve of the lots (Lots 2 through 5, Lots 8 through 11, and Lots 13 through 16) will have access via three separate private rights-of-way created pursuant to Section 24 128(b)(1) of the Subdivision Regulations. If the limited detailed site plan is approved in accordance with Staff Exhibit A, the deletion of Lot 3 will allow Lot 1 to utilize the joint access easement with Lots 2, 4, and 5, and eliminate Lot 1's direct access to Trumps Hill Road, which is deemed acceptable.

Based on the preceding findings, it is determined that adequate access roads will exist as required by Section 24-124 of the Subdivision Regulations.

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

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School 4 Cluster	Middle School 2 Cluster	High School 2 Cluster
Dwelling Units	17 DU	17 DU	17 DU
Pupil Yield Factor	.164	.130	.144
Subdivision Enrollment	3	2	2
Actual Enrollment	3,383	4,559	11,684
Total Enrollment	3,386	4,561	11,686
State Rated Capacity	4,399	5,540	13,106
Percent Capacity	77%	82%	89%

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 the Capital Beltway (I-95/495) 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. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,762 and \$ 15,020 to be paid at the time of issuance of each building permit.

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

PGCPB No. 13-19  
 File No. 4-12018  
 Page 31

15. **Fire and Rescue**—The proposed preliminary plan has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(C) and (E) of the Subdivision Regulations.

The proposed development is within the seven-minute required response time for the first due fire station using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

First Due Fire/EMS Company #	Fire/EMS Station	Address
45	Upper Marlboro	7710 Croom Road

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

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

#### **Capital Improvement Program (CIP)**

There are no CIP projects for public safety facilities proposed in the vicinity of the subject site.

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

16. **Police Facilities**—The subject property is located in Police District V, Clinton. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on September 27, 2012.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 09/27/2012	8/2012-7/2011	9 minutes	12 minutes
Cycle 1			
Cycle 2			
Cycle 3			

Based upon police response times, the response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on October 1, 2012.

PGCPB No. 13-19  
File No. 4-12018  
Page 32

17. **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.”

The 2008 *Water and Sewer Plan* placed subject property in water Category 4, Community System adequate for developing planning, and sewer Category 6, Individual System. The property must be approved for water Category 3 through the administrative amendment procedure before approval of a final plat. Sewer Category 6 designates the property to be developed on individual septic systems. This property was granted sewer Category 6 designation in County Resolution CR-64-2006 and reflects as an exception to the Sewer Envelope and Developing Tier policies in the 2008 *Water and Sewer Plan*.

Water lines in Robert Crain Highway (US 301) and Trumps Hill Road abut the property. Sewer lines in Fairgreen Lane and Weathervane Lane are in close proximity to the property. Water line extensions may be required to service the proposed subdivision and must be approved by the Washington Suburban Sanitary Commission. The sewer service is discussed further in the Health Department finding of this report.

18. **Health Department**—The Prince George’s County Health Department has evaluated the proposed preliminary plan of subdivision and has the following comment.

Development of the subdivision is projected to utilize individual sewage disposal systems and public water supply. Each of the lots has sufficient percolation tests to accommodate a 10,000-square-foot or larger sewage disposal area, as required by the Subdivision Regulations for the approval of a preliminary plan of subdivision. Additional criteria, beyond percolation testing, will be evaluated to determine if a sewage disposal permit will ultimately be issued for a specific lot. The site development grading, required stormwater management devices, and location of the proposed structures are all potential sources of challenges associated with conflicting development requirements. Please be aware that any disturbance of the proposed sewage disposal area or any other conditions causing the tested lot to be in violation of the Prince George’s County Code, Subtitle 22, may result in additional percolation tests being required and could possibly result in having the lot declared unbuildable until public sewer is available to the property. In addition, supplementary percolation tests may be required after three years from the date of testing, or if the percolation requirements under which the original tests were conducted are no longer valid.

19. **Public Utility Easement (PUE)**—In accordance with Sections 24-122(a) and 24-128(b)(12) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider should 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.”



PGCPB No. 13-19

File No. 4-12018

Page 33

The preliminary plan of subdivision correctly delineates a ten-foot-wide public utility easement along the public and private rights-of-way as requested by the utility companies.

20. **Historic**—The subject property is adjacent to the southern property line of Woodstock Historic Site, 82A-013. Woodstock is listed in the National Register of Historic Places and is a mid-nineteenth century, two and one-half-story, side-gabled frame plantation house. Woodstock exemplifies the Tidewater house style, typical of successful small plantations of the period. It is an important example of Prince George's County nineteenth century architectural history.

The developing property was part of the Woodstock Farm plantation. One previously identified structure, the Clagett Tenant House (82A-014), was located on the subject property. The Clagett Tenant House was a two-story frame gable-roofed dwelling with its principal façade facing south. A large, exterior brick chimney was located at the west gable end. This building was demolished circa 1982.

The preliminary plan of subdivision and associated tree conservation plan indicate the location of the adjacent historic site, but do not properly reference it by name; all plans should be revised to include "Woodstock Historic Site, 82A-013." Part of proposed Outparcel A includes the current access drive to Woodstock (through a recorded right-of-way). The applicant should provide for the continuation of this access and it is recommended that Outlot A be conveyed to the owner of the adjacent historic site if an agreement can be reached between the property owners. The subject property shares a property boundary with the Woodstock historic site's environmental setting. As a result, the *Prince George's County Landscape Manual* requires that a Type "E" bufferyard (a 50-foot landscape buffer and a 60-foot building setback) be retained or planted on the developing property wherever it adjoins the historic site. The outlot should contain the required buffer in an easement prior to its conveyance. If an agreement cannot be reached prior to final plat, the outlot should be incorporated into Lot 16, and the existing access easement serving Parcel 106 be reflected on the final plat with the liber/folio.

Based on the clearing that will be required to establish house sites within the developing property, some of these sites may be visible from the adjacent historic site for all or part of the year. The applicant was asked to provide visual impact studies (sight-line studies and section drawings) depicting the visibility of proposed house sites on the developing property from the historic site and the relative topography of house sites and the historic site.

The applicant's submitted visual impact studies demonstrate that only those proposed house sites closest to the historic site's main house will be at least partially visible from it. Intervening topography and existing tree cover to remain will render most of the proposed 17 lots not visible from the historic site. However, based on the applicant's exhibits, it appears that proposed house sites C, D, and E (Lots 14, 15, and 16) will be visible from Woodstock for at least a portion of the year. As a result, the Historic Preservation Commission recommends that the Planning Board require a limited detailed site plan review for architecture prior to building permit for these lots that focuses on the height, design, materials, and colors of those houses and/or elevations visible from the adjacent historic site. The design and details of the houses on these lots should be of a

PGCPB No. 13-19

File No. 4-12018

Page 34

traditional nature and compatible with the character of the adjacent historic site; these houses should employ siding, window forms and fenestration patterns, roof forms and materials, and color palettes typical of and compatible with mid-nineteenth century rural dwellings and the adjacent Woodstock historic site.

### **Phase I Archeology Survey**

The developing property and the adjacent historic site were both part of the 200-acre portion of a tract known as Timberly, patented by Robert Ridgely in 1672, known as the Woodstock Farm. The main block of the adjacent historic site was probably constructed in the early 1850s by Washington Custis Calvert of Mount Airy. The main block was subsequently attached, by means of a connecting hyphen, to an older kitchen building. In 1860, Woodstock became the home of James Beall Belt, and on his death the property was passed to his son John W. Belt. The Belt residence is shown on the 1861 Martenet map. Therefore, the adjacent developing property was investigated for potential archeological significance associated with antebellum habitation by enslaved African Americans, as well as the potential for archeological significance associated with Native American habitation.

In accordance with the Planning Board's directives, as described in the Guidelines for Archeological Review, May 2005, and consistent with Subtitle 24-104, 24-121(a)(18), and 24-135.01, a Phase I archeological investigation was conducted on the subject property to identify any archeological sites that may be significant to understanding the history of human settlement in Prince George's County, including the possible existence of slave quarters and slave graves, as well as archeological evidence of the presence of Native American peoples.

A Phase I archeological survey was conducted on the subject property in November 2012. A grid was laid out over the property and 226 shovel test pits (STPs) were excavated at 15-m intervals; 24 were excavated at 10-m intervals; and four radial STPs were excavated at 5-m intervals. Eight of the STPs contained cultural material that predated the first half of the twentieth century. One prehistoric quartz projectile point was recovered from a STP on a wide terrace overlooking a stream in the far west of the project area. Radial STPs were excavated, but no further artifacts were noted. Historic artifacts were recovered from three STPs in dispersed areas of the property. A piece of twentieth century whiteware and a piece of pearlware were recovered from STPs at the base of a slope near Woodstock. These artifacts likely washed down from the hillside. Three STPs to the west of Woodstock on a grassy knoll contained early twentieth century artifacts. Two outbuildings associated with Woodstock are visible in the 1938 aerial photograph and on a 1957 Maryland State Highway road plat in the vicinity of the artifact scatter.

In the area of the Clagett Tenant House (82A-014), STPs were placed at 10-m intervals. Concrete footers from a barn, a collapsed shed, and an old road bed were noted in the vicinity. A total of 24 STPs were excavated in this area. Most of the STPs contained artifacts dating from the third quarter of the twentieth century that were not saved. No artifacts were found that dated prior to the twentieth century. It appears that the twentieth century occupation of the site had totally obscured any earlier remains. The site area measured 115 by 75 meters and was recorded as the Clagett Tenant House, Site 18PR1046.

PGCPB No. 13-19  
File No. 4-12018  
Page 35

Based on the results of the Phase I survey, one Archeological Site (18PR1046) was identified in the west central part of the property. A majority of the artifacts identified on the ground surface and from STPs were historic artifacts dating to the third quarter of the twentieth century. Any evidence of the nineteenth century occupation of Site 18PR1046 was totally obscured by the mid- to late-twentieth century farm activities. One prehistoric projectile point and several nineteenth and twentieth century historic artifacts were found in dispersed portions of the property.

Due to the absence of artifacts dating prior to the twentieth century and the lack of archeological integrity of Site 18PR1046 resulting from the demolition of the house in the 1980s, no further work is recommended on the site or any other portion of the property. Further archeological investigations will not add to our knowledge of the history of Prince George's County. No further archeological investigations are necessary on the Magruder West property, and preservation in place is not required.

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 funds or federal permits are required for a project.

#### **Historic Preservation Commission**

The Historic Preservation Commission (HPC) reviewed Preliminary Plan 4-12018 for the subject property at its January 15, 2013 meeting. HPC discussed the applicant's visual impact studies as well as the potential visibility and orientation of the proposed house lots near the adjacent Woodstock historic site. HPC also discussed with the applicant's representative, Mr. David Shaffer, the distance between the Woodstock historic site and the developing lots nearby, the character of the intervening topography, the existing woodland to remain within the developing property, and the character of the required Type "E" bufferyard along the shared property boundary. HPC voted 7-0-1 in favor of forwarding the following recommended conditions of approval to the Planning Board as part of its review of Preliminary Plan 4-12018, Magruder West:

- "a. The applicant's submitted plans and all future submittals shall be revised to: (1) identify the adjacent historic site and its environmental setting as "Woodstock Historic Site, 82A-013," and (2) indicate the provision of the required Type "E" bufferyard along the property line shared with the historic site on Outlot A.
- "b. Prior to the approval of the first grading permit for the subject property, the applicant shall submit a limited detailed site plan application for architecture that addresses the height, design, materials, and colors of the houses proposed for house sites identified as C, D, and E on the applicant's visual impact studies (proposed Lots 14, 15, and 16) that will be visible from the adjacent Woodstock Historic Site, 82A-013. This limited detailed site plan shall be approved by the Planning Board or its designee, and shall be referred to the Historic Preservation Commission for review to ensure the compatibility of the new construction with the historic and architectural character of the Woodstock Historic Site.

PGCPB No. 13-19  
File No. 4-12018  
Page 36

The design and details of the houses on these lots shall be of a traditional nature and compatible with the character of the adjacent historic site; these houses shall employ siding, trim and decorative details, window forms and fenestration patterns, roof forms and materials, and colors typical of or compatible with mid-nineteenth-century rural dwellings and the adjacent Woodstock historic site.

- “c. Prior to approval of the preliminary plan, the applicant shall provide proof to Historic Preservation staff that they have forwarded all necessary materials to the Maryland Historical Trust for their review of potential effects on historical resources on the subject property if Section 106 review is required.”

The HPC recommended conditions are carried forward and incorporated in the conditions of this report, as appropriate.

21. **Use Conversion**—This preliminary plan was analyzed based on the proposal for residential development. The analysis includes access, noise, mandatory dedication, and views of the property, specifically relating to the single-family dwelling land use proposed with this application. While the subject application is not proposing any nonresidential development, if such a land use were proposed, a new preliminary plan will be required.
22. **Entrance Signs**—Pursuant to Section 24-120(a)(21) of the Subdivision Regulations, the preliminary plan shall show the location of the entrance feature or gateway sign if proposed. The preliminary plan shows two entrance signs, one on Lot 1 and the other on Lot 17, along Trumps Hill Road at its intersection with Windgate Place. Trumps Hill Road is a designated historic road. To insure and protect the character of Trumps Hill Road, one of the entrance signs should be removed. The proposed subdivision does not propose any common homeowner space or parcels and, therefore, a homeowners association is not required. The proposed sign will be on a private lot; therefore, a sign easement will be required and reflected on the plat. A sign maintenance agreement will be required and be approved by the Department of Environmental Resources pursuant to Section 27-624 of the Zoning Ordinance and the liber/folio of the agreement should be noted on the plat. Since the sign will be along a scenic and historic road, the Historic Preservation Commission should review and approve the sign prior to the issuance of a sign permit.
23. **Planning Board Hearing**—On February 28, 2013 the Planning Board approved the Preliminary Plan 4-12018 with the conditions set forth in the technical staff report with one modification as requested by the Applicant (Applicant Exhibit 1). Condition 3 was modified to allow the applicant the opportunity to demonstrate that appropriate noise mitigation could be provided without the use of a noise wall. This detailed analysis would occur thru the review of a limited detailed site plan prior to final plat. If the applicant is unable to demonstrate a reasonable development area and appropriate noise mitigation then the plan will be revised in accordance with Staff Exhibit A to delete Lot 3 prior to final plat.

PGCPB No. 13-19

File No. 4-12018

Page 37

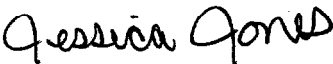
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

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 Geraldo, with Commissioners Washington, Geraldo, Bailey, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, February 28, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28<sup>th</sup> day of March 2013.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:QN:arj

APPROVED AS TO LEGAL SUFFICIENCY.

  
M-NCPPC Legal Department

Date 3/19/13