

R E S O L U T I O N

WHEREAS, Tower Terra, LLC is the owner of a 106.62-acre parcel of land known as Parcel 100, Parcel 52, Parcel 94, and Parcel 198, and Lots 1-15 of the Brandywine Forest subdivision, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned Rural Residential (R-R); and

WHEREAS, on December 18, 2020, Tower Terra, LLC filed an application for approval of a Preliminary Plan of Subdivision for 165 lots, 17 parcels, and one outparcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-20021 for Brandywine Woods 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 April 15, 2021, 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 April 15, 2021, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-022-2020, and APPROVED a Variance from Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-20021, a Public Benefit Conservation Subdivision, including a Variation from Section 24-123(a)(4), for 165 lots, 17 parcels, and one outparcel with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised to:
  - a. Add a 10-foot-wide public utility easement along the property's frontage on Redwood Avenue, where the road is not proposed to be vacated.
  - b. Revise the "300' bufferyard - railroad" label to "300' lot depth – railroad."
  - c. Revise General Note 1 to indicate that there are two existing parcels named Parcel 100, rather than one parcel in two parts. Give the plat recording reference Plat Book WWW 29 p. 91 for the existing lots included in the subdivision.

- d. Ensure Parcel J(K) has only one label on the plan and only one letter designation. Letter all the parcels in sequence so no letters are skipped.
  - e. On the coversheet, revise the "Parcel S" label to read "Outparcel A."
  - f. Revise Site Inventory Information Note 1 to give the full list of tax grids (E-1, E-2, E-3, F-2, and F-3).
  - g. Update Site Inventory Information Note 13 with the approval date of the Type 1 tree conservation plan.
  - h. On Sheet 4 (the conservation easement and parcel exhibit), the following revisions shall be made:
    - (1) Delete the column labeled "Area of Woodland Conservation."
    - (2) Rename the column labeled "Area of Public Benefit Conservation" as "Area of Public Benefit Conservation Subdivision Easement."
    - (3) Update the legend label "Conservation Easement" to say, "Public Benefit Conservation Subdivision Easement."
    - (4) Update the title of the page to read "Public Benefit Conservation Subdivision Easement & Parcel Exhibit."
  - i. Relabel the 40-foot-wide viewshed buffer along Tower Road as a 40-foot-wide scenic easement.
2. Any nonresidential development shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.
  3. Development of this site shall be in conformance with Stormwater Management Concept Plan 31009-2020-0 and any subsequent revisions.
  4. Prior to approval of a final plat, administrative approval shall be obtained for placing the property in Water and Sewer Category 3.
  5. Prior to approval of a final plat, in accordance with the approved preliminary plan of subdivision (PPS), the final plat shall include:
    - a. The granting of public utility easements along both sides of the public rights-of-way.
    - b. The dedication of right-of-way 30 feet from the centerline of Tower Road.
    - c. The dedication of the new public streets, as approved on the PPS.

- d. A note indicating a Variation from Section 24-123(a)(4) of the Prince George's County Subdivision Regulations is approved by the Prince George's County Planning Board for the curve radii of the public streets, pursuant to approved PPS 4-19003.
  - e. Notations, in accordance with Section 24-152(m) of the Prince George's County Subdivision Regulations. A draft conservation subdivision easement shall be reviewed and approved by the Development Review Division, as designee of the Prince George's County Planning Board, and shall demonstrate conformance to Section 24-152(n) and (o).
  - f. A 40-foot-wide scenic easement along Tower Road.
6. Prior to approval of a final plat, the applicant shall submit a limited detailed site plan (DSP) for review by the Planning Director or her designee. The limited DSP shall be limited to review of the internal trail network proposed for the site and its trailheads. The limited DSP shall be evaluated to ensure the trails and trailheads are in appropriate locations accessible to the public, feasible to construct and maintain, have reasonable restrictions on its use, and avoid additional environmental impacts beyond those which would be permitted under Subtitles 24 and 27 of the County Code. The limited DSP shall also determine appropriate provisions for public access and reasonable restrictions for use of the trail to be included in the conservation subdivision easement document and the homeowners association covenants.
  7. At the time of the limited detailed site plan, the applicant shall demonstrate that no part of the proposed on-site trail system is within the 65 dBA Ldn noise contour shown on the preliminary plan of subdivision; or, if the trail system encroaches within the noise contour, the applicant shall provide a Phase II noise analysis, which recommends any needed noise mitigation measures.
  8. At the time of the limited detailed site plan, the plan shall determine if visitor parking is needed for the on-site trail system and, if parking is needed, demonstrate that suitable visitor parking will be available. The plan shall also show directional signage for visitors to the public trail system.
  9. Prior to approval of a final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assignees shall revise the draft conservation subdivision easement document to:
    - a. Describe the conservation subdivision easement by bearings and distances, consistent with the of the area of the conservation subdivision easement determined with the preliminary plan of subdivision.
    - b. Accurately list the parcels considered to be conservation parcels, as shown on the approved preliminary plan of subdivision.
    - c. Contain appropriate provisions for public access and reasonable restrictions for use (as determined with the limited detailed site plan) of the proposed trail system within the conservation areas.

10. Prior to approval of a final plat, the applicant and the applicant's heirs, successors and/or assignees shall pay a fee-in-lieu of mandatory parkland dedication.
11. In conformance with the 2009 *Approved Countywide Master Plan of Transportation*, and the 2013 *Subregion 6 Approved Master Plan and Sectional Map Amendment*, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following improvements:
  - a. Minimum 5-foot-wide continuous and accessible sidewalks on both sides of all streets, public and private, excluding alleys within the subject property, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement, with written correspondence.
  - b. Minimum 5-foot-wide accessible sidewalks along the subject site frontage of Tower Road, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement, with written correspondence.
  - c. Shared-roadway bicycle facility pavement markings (sharrows) and bicycle signage, consistent with the 2012 American Association of State Highway and Transportation Officials Guide for the Development of Bicycle Facilities, along the subject site frontage of Tower Road, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement with, written correspondence.
12. The applicant and the applicant's heirs, successors, and/or assignees shall provide any safety improvements needed on the public streets of the subdivision to slow traffic to speeds appropriate for the reduced curve radii. The specific improvements needed shall be determined by the Prince George's County Department of Permitting, Inspections and Enforcement at the time of permitting and may include postings of reduced speed limits and speed hubs.
13. Prior to signature approval of the preliminary plan, the Type 1 tree conservation plan (TCP1) shall be revised, as follows:
  - a. On Sheet 1 of the TCP1, label the key map of existing parcels as "Existing Parcels Map" and the table of included parcels and lots as "Included Properties."
  - b. Add the forest interior dwelling species line type to the legend.
  - c. Add the area of existing woodland located within Outparcel A to the Woodland Preservation totals.
  - d. Update the Woodland Conservation Summary Table to reflect the clearing, preservation, reforestation, and woodland retained assumed cleared with the approved layout.

- e. Revise the existing woodland located in the public utility easement, in the existing stormdrain easement, and within the Southern Maryland Electric Cooperative easement to be “Woodland Retained–Assumed Cleared.”
- f. Update the Type 1 Tree Conservation Worksheet to account for required plan revisions and have the worksheet signed by the qualified professional who prepared it.
- g. Add the standard Subtitle 25 variance note under the Specimen Tree Table or Woodland Conservation Worksheet, identifying with specificity the variance decision consistent with the decision of the Prince George’s County Planning Board:

“NOTE: This plan is in accordance with the following variance(s) from the strict requirements of Section 25-122(b)(1)(G) as approved by the Planning Board on (ADD DATE) for the removal of the following specimen trees: 4, 5, 6, 7, 8, 9, 10, 11, and 12.

- h. Have the plans signed and dated by the qualified professional who prepared them.
14. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-022-2020). 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 (TCP1-022-2020 or most recent revision), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”

15. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the final plat of subdivision:

“This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 Tree Conservation Plan, when approved.”

16. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area, except for any approved impacts, and shall be reviewed by the Environmental Planning Section, prior to approval of the final plat. The following note shall be placed on the plat:

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

17. Prior to issuance of any permits which impact wetlands, wetland buffers, streams or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
18. Prior to signature approval of the preliminary plan of subdivision, an approved stormwater management (SWM) concept plan shall be submitted. The limits of disturbance shall be consistent between the approved SWM concept plan and the Type 1 tree conservation plan.
19. A draft copy of the Erosion and Sediment Control Technical Plan shall be submitted for review prior to the certification of the limited detailed site plan and Type 2 tree conservation plan (TCP2), so that the ultimate limits of disturbance for the project can be verified.
20. Full cut-off optic light fixtures shall be used, in order to minimize light intrusion from development of this site into the conservation area.
21. Total development within the subject property shall be limited to uses which generate no more than 124 AM peak-hour trips and 149 PM peak-hour vehicle trips. Any development generating an 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.
22. Prior to approval of a building permit for each dwelling unit, a fee calculated as \$1,472 multiplied by (Engineering News Record Highway Construction Cost index at time of payment) / (Engineering News Record Highway Construction Cost Index for first quarter, 1993), as shown in accordance with Prince George's County Council Resolution CR-9-2017, shall be determined. All fees shall be paid to Prince George's County (or its designee), to be indexed by the appropriate cost indices to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement.
23. Prior to issuance of any grading permits, the applicant shall provide a final report detailing the Phase I and Phase II archeological investigations, and a copy of the Maryland Inventory of Historic Properties form for the house on the subject property, recorded as 85B-021. The applicant shall ensure that all artifacts are curated in a proper manner. Proof of the disposition of the artifacts shall be provided to Historic Preservation staff.
24. Prior to approval of a final plat, the applicant and the applicant's heir, successors, and/or assignees shall demonstrate that a homeowners association has been established for the subdivision. The draft covenants shall be submitted to the Subdivision Section to ensure that the rights of the Maryland-National Capital Park and Planning Commission are included. The draft covenants shall also provide appropriate provisions for public access and reasonable restrictions for use (as determined with the limited detailed site plan) of the proposed trail system.

The Liber/folio of the declaration of covenants shall be noted on the final plat, prior to recordation.

25. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association land, as identified on the approved preliminary plan of subdivision. Land to be conveyed shall be subject to the following:
  - a. A copy of the recorded deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division.
  - b. All waste matter of any kind shall be removed from the property, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
  - c. The conveyed land shall not suffer the disposition of construction materials or soil filling, other than the placement of fill material associated with permitted grading operation that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
  - d. Any disturbance of land to be conveyed to the association shall be in accordance with an approved site plan and tree conservation plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
  - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to the association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division.
  - f. The Prince George's County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject site is on the west side of Tower Road, approximately 400 feet north of its intersection with MD 381 (Brandywine Road). The property consists of 5 acreage parcels and 15 recorded lots; these include two parcels both known as Parcel 100 (recorded in Liber 23674 Folio 147); Parcel 52 (Liber 21608 Folio 543), Parcel 94 (Liber 24265 Folio 26), and Parcel 198 (Liber 33862 Folio 74); and Lots 1–15 of the Brandywine Forest subdivision

(recorded in Plat Book WWW 29 p. 91). The 106.62-acre property is located in the Rural Residential (R-R) Zone and is subject to the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (Subregion 6 Master Plan and SMA). Premise addresses associated with properties comprising the site include 13515, 14001, and 14005 Tower Road, as well as 13106 Cherry Tree Crossing Road and 9500 to 9516 Redwood Avenue.

This project is for a Public Benefit Conservation Subdivision, pursuant to Section 24-152 of the Prince George's County Subdivision Regulations. The applicant proposes to subdivide the property into 165 single-family detached lots, with a minimum size of 6,500 square feet each, 17 parcels, and 1 outparcel. The parcels will be conveyed to a homeowners association (HOA) and used for open space. A conservation subdivision easement, to the benefit of a public or private organization, land trust, or corporation pursuant to Section 24-152(n), will be recorded over parts of eight of the parcels. Provisions will also be made for public access to an on-site trail system, in order to help provide the public benefit component of the conservation subdivision.

The site includes environmental, historic, and scenic features, which are targeted for conservation. The environmental features include nontidal wetlands and woodlands of high forest structure in the interior of the site. The historic and scenic features include a 40-foot-wide viewshed buffer along Tower Road, a designated historic roadway. An analysis of the project's conformance to the requirements of a public benefit conservation subdivision is given in the Public Benefit Conservation Subdivision Definition and Purpose finding of this resolution.

While the property has been subject to previous subdivision applications and approvals, the property remains undeveloped. Therefore, a preliminary plan of subdivision (PPS) is required in order to permit the division of land for the development proposed.

The applicant filed a variation request from Section 24-123(a)(4) of the Subdivision Regulations, in order to allow a reduction in the minimum curve radii standards of the County road ordinance for the streets within the subdivision. This request is discussed further in the Site Access and Layout finding of this resolution.

The applicant also filed a variance request to Section 25-122(b)(1)(G) of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO), in order to allow removal of nine specimen trees. This request is discussed further in the Environmental finding of this resolution.

The site includes a portion of a street right-of-way (ROW) known as Redwood Avenue, originally platted with the Brandywine Forest subdivision. This ROW serves two residences which abut the site, but it is unimproved farther west within the subdivision. The ROW is proposed to be vacated where it passes through the site. Vacation of the ROW will be subject to a separate application.

3. **Setting**—The subject site is located on Tax Map 145 in Grids E-1, E-2, E-3, F-2, and F-3, and is within Planning Area 85B. The site is bound on the north by a Potomac Electric Power Company (PEPCO) utility ROW, which is in the R-R Zone, together with the single-family detached



dwellings beyond. An 0.83-acre portion of the subject property, one of the two parcels known as Parcel 100, is separated from the rest of the site by the utility ROW, and is bound by the ROW and the single-family detached dwellings.

The site is bound on the west by a railroad and Cherry Tree Crossing Road; woodland, single-family detached dwellings, and small commercial and institutional uses in the R-R, Heavy Industrial (I-2), and Commercial Miscellaneous (C-M) Zones are located beyond. To the south are additional residential, commercial, industrial, and railroad uses in the R-R, Light Industrial (I-1), and I-2 Zones.

To the southeast is Tower Road, with single-family detached residences in the R-R Zone beyond. A 49-acre tree bank held under easement by the Maryland Environmental Trust is located behind the dwellings. The only two developed lots of the Brandywine Forest subdivision are located between the subject property and Tower Road, where that street intersects with the improved portion of Redwood Avenue.

To the northeast are additional single-family detached dwellings in the R-R Zone, fronting on Tower Road and Old Indian Head Road.

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

	<b>EXISTING</b>	<b>APPROVED</b>
Zones	R-R	R-R
Use(s)	Vacant/woodland	Residential Public Benefit Conservation Subdivision
Acreage	106.62	106.62
Parcels	5	17
Outparcels	0	1
Lots	15	165
Dwelling Units	0	165
Variance	No	Yes Section 25-122(b)(1)(G)
Variation	No	Yes Section 24-123(a)(4)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on January 8, 2021. The requested variation from Section 24-123(a)(4) was accepted on December 18, 2020, and also heard at the SDRC meeting on January 8, 2021, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Previous Approvals**—Sketch Plan S-14001 was certified as complete by the Planning Director on July 31, 2019, which is required, in accordance with Section 24-152(f), as a prerequisite to the acceptance of this PPS.

Two previous Sketch Plans, S-06001 and S-07018, were certified in July 2007 and June 2008, respectively. The validity period of both these sketch plans has expired. An associated PPS, 4-07004, was withdrawn.

The portion of the site known as Lots 1–15 of the Brandywine Forest subdivision was recorded in Plat Book WWW 29 p. 91 in 1957. There is no known PPS associated with this plat.

6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the Subregion 6 Master Plan are evaluated, as follows:

**General Plan**

This PPS is located within the Established Communities growth policy area designated in Plan 2035. The vision for the Established Communities states that these areas are “most appropriate for context-sensitive infill and low- to medium-density development. Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries and schools), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met” (page 20).

**Master Plan**

The Subregion 6 Master Plan recommends Residential Low land uses (residential areas with up to 3.5 dwelling units per acre; primarily single-family detached dwellings) for the subject property. The Subregion 6 SMA (CR-83-2013) retained the subject property in the R-R Zone.

The Subregion 6 Master Plan was originally published in 2009 (CR-62-2009) before being remanded by the Prince George's County District Council and eventually being republished in 2013. One recommendation of the master plan, implemented before its republishing, was a study of the old Brandywine area, which is adjacent to the subject property. This was published as the 2011 *Brandywine Revitalization and Preservation Study*. The sidewalk required with this PPS along Tower Road will come close to MD 381, where there is an ongoing 70 percent design and engineering roadway improvement project. This current Planning Assistance to Municipalities and Communities project, known as the Brandywine Sidewalk and Streetscape Improvements, is a critical step in the process of implementing the roadway and sidewalk improvements recommended in the 2011 *Brandywine Revitalization and Preservation Study*.

When implemented, the roadway features along MD 381 will allow pedestrians and bicyclists safe passage along the main roadway, very close to the public benefit conservation area in Brandywine Woods. The conservation area in Brandywine Woods will provide an additional destination for members of the public to enjoy natural areas in the community.

The PPS conforms to the recommendations of the master plan, pursuant to Section 24-121(a)(5) of the Subdivision Regulations.

7. **Stormwater Management**—An unapproved stormwater management (SWM) concept plan has been submitted, which shows the use of 30 environmental site design bioswales and 7 grass swales, along the proposed residential roads and stormdrain outfalls. None of the proposed facilities impact the primary management area (PMA). Prior to signature approval of the PPS, an approved SWM concept plan for the current proposal shall be submitted. The approved SWM concept plan and its associated Type 1 tree conservation plan (TCP1) shall show the same site layout.

Development of the site shall conform with the SWM concept plan (once approved) and any subsequent revisions, to ensure no on-site or downstream flooding occurs.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of the Subregion 6 Master Plan and the Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreational facilities.

The Southern Area Aquatics and Recreation Complex (SAARC) is located approximately 1 mile west of this property on Missouri Avenue. In addition, Brandywine-North Keys Park is located approximately 2 miles to the east. The park contains a picnic shelter, a playground, a paved walking trail, a softball field, a multipurpose field, and a little league baseball field. The subject property is also located approximately 0.25 mile from an undeveloped park known as Brandywine Road Park, and 6.6 miles from Cedarville State Forest.

The Subregion 6 Master Plan and SMA indicates that the subregion contains approximately 12,970 acres of regional park land. This includes Patuxent River Park, Cedarville State Forest, and Rosaryville State Park. The subregion also contains approximately 740 acres of local park land consisting of mostly neighborhood and community parks.

The 2009 *Approved Countywide Master Plan of Transportation* (MPOT) calls for planned bike routes/shared use roads along MD 381, Missouri Avenue, North Keys Road, and Tower Road. These will allow residents of the Brandywine Woods subdivision to travel safely to the new SAARC facility and Brandywine-North Keys Park.

The area to accommodate private recreational facilities on the subject site is very limited. The largest parcels consisting of Parcel D (24.52 acres) and Parcel I (11.91 acres) have been designated for conservation. The applicant shall provide a fee-in-lieu of parkland dedication, which may be applied toward improvements at Brandywine-North Keys Park.

Future residents will be best served by the provision of a fee-in-lieu to help improve existing off-site recreational facilities. The fee-in-lieu to be provided will meet the requirements of mandatory park dedication, as required by Section 24-135(a) of the Subdivision Regulations.

9. **Bicycle/Pedestrian**—This PPS was reviewed for conformance with the MPOT, the Subregion 6 Master Plan, and the Subdivision Regulations to provide the appropriate pedestrian and bicycle transportation facilities.

### **Review of Submitted Plans**

The submitted plans provide the following pedestrian and bicyclist improvements:

The applicant proposes to provide sidewalks on one side of all internal streets, except for cul-de-sacs where sidewalks will be provided around the full circumference of each sac. The applicant also proposes to construct a sidewalk along the property frontage of Tower Road.

A series of natural surface pedestrian paths are proposed through the conservation areas of the subject site, with directional and informational/educational signs along the paths. This trail system is proposed to be open to the public in order to help provide a public benefit. As an example of a possible user, the applicant noted in their statement of justification (SOJ) that the Brandywine Elementary School is close to the subject property, and that students and teachers could avail themselves of the path for science classes or other activities.

However, the applicant noted that there will “ultimately” be sidewalk or shared use path connections between the Brandywine Woods subdivision’s proposed paths and Brandywine Elementary School. At present, pedestrian and bicycle friendly connections do not exist between Brandywine Woods and the school, or other sites of interest in the community, such as SAARC. Without pedestrian and bicycle friendly connections between Brandywine Woods and the community, the only viable travel mode for nonresidents of Brandywine Woods to reach the proposed public pathways is by motor vehicle, until such time as such connections are made. School classes, for instance, may need to travel by school bus. The applicant has not yet addressed how outsiders will access these pedestrian paths, particularly since on-street parking is not currently proposed on the new roads within the subdivision. Some streets may need to have their pavement widened to provide on-street parking, or parking may need to be made available in an off-street parking area. The parking provided will need to be suitable for the kinds of vehicles expected to arrive. What parking shall be made available shall be determined at the time of the limited detailed site plan (DSP) conditioned with the approval of this PPS.

### **Master Plan Compliance**

The development is subject to the MPOT, which recommends a shared roadway along Tower Road.

The MPOT also provides policy guidance regarding multimodal transportation, and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling (MPOT, pages 9–10):

- Policy 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.**
- Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.**

- Policy 3:**        **Develop bicycle-friendly roadways in conformance with the latest standards and guidelines and guidelines, including the 1999 AASHTO Guide for the Development of Bicycle Facilities.**
- Policy 4:**        **Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO Guide for the Development of Bicycle Facilities.**
- Policy 5:**        **Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.**

This development is also subject to the Subregion 6 Master Plan, which recommends the following:

**Trails and sidewalks provide opportunities for non-vehicular circulation, as well as recreation, in and between communities and in the park system. Sidewalks and neighborhood trails are important for providing safe routes to school and for building connected walkable communities. By providing accommodations for all modes of transportation, walking and bicycling can be promoted for some trips, reducing the need for driving and increasing opportunities to build physical activity into daily life (page 105).**

**Within the Developing Tier, roadways must include safe accommodations for bicyclists and pedestrians. Continuous sidewalks are necessary to provide safe access to schools and parks, link communities with commercial areas, and achieve the goal of providing “walkable” communities (page. 105).**

**The county should provide continuous sidewalks and bicycle compatible road improvements along roads within the Developing Tier (page 105).**

**Policy 7: Expand, encourage, and promote hiker/biker/equestrian recreational activities (page 105).**

**Policy 8: Promote and encourage cycling and walking as an alternative to the car for commuting and recreational purposes (107).**

The submitted plans do not reflect the pedestrian and bicyclist facilities recommended in the master plans. Shared-lane pavement markings (sharrows) and bikeway signage shall be provided along the subject site frontage of Tower Road. Sidewalks shall be provided on both sides of all new roadways throughout the subject site (unless modified by DPIE), since the property is in the developing tier.

Based on the findings above, and requirements and criteria in Subtitle 24, the pedestrian and bicycle facilities will conform to the MPOT and the Subregion 6 Master Plan.

- 10. Transportation**—Transportation-related findings for adequacy are made for this PPS, in accordance with the Subdivision Regulations, along with any needed determinations related to dedication, access, and general subdivision layout.

The subject property is located within Transportation Service Area 2, as defined in Plan 2035. 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 of 1,450 or better. Mitigation per Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the “Transportation Review Guidelines, Part 1” (Guidelines).

**Unsignalized Intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. For two-way stop-controlled intersections, a three-part process is employed:

(a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the critical lane volume is computed.

For all-way stop-controlled intersections, a two-part process is employed: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the critical lane volume is computed.

#### **Analysis of Traffic Impacts**

The applicant submitted a traffic impact study (TIS) with a date of August 2020. The findings outlined below are based upon review and analysis of these materials, consistent with the Guidelines.

The table below shows the intersections deemed to be critical, as well as the levels of service representing existing conditions:

<b>EXISTING CONDITIONS</b>		
<b>Intersections</b>	<b>AM</b>	<b>PM</b>
	(LOS/CLV)	(LOS/CLV)
US 301 @ Cherry Tree Crossing Road* <i>Tier 2 – Minor Street Volume Test</i>	>50 seconds <100 vehicles	>50 seconds <100 vehicles
Cherry Tree Crossing Road @ Cross Trail Road*	10.5 seconds	10.0 seconds
Cherry Tree Crossing Road @ Old Indian Head Road*	9.0 seconds	8.5 seconds
MD 381 @ Tower Road*	12.6 seconds	13.6 seconds
US 301 @ MD 381	D/1400	C/1275
*Unsignalized intersections. In analyzing two-way stop-controlled intersections, a three-step procedure is undertaken in which the greatest average delay (in seconds) for any movement within the intersection, the maximum approach volume on a minor approach, and the critical lane volume (CLV) is computed and compared to the approved standard. According to the Guidelines, all three tests must fail in order to require a signal warrant study.		

The TIS identified five background developments whose impact would affect some, or all of the study intersections. In addition, a growth of one percent over six years was applied to the traffic volumes. A second analysis was done to evaluate the impact of the background developments. The analysis revealed the following results:

<b>BACKGROUND CONDITIONS</b>		
<b>Intersections</b>	<b>AM</b>	<b>PM</b>
	(LOS/CLV)	(LOS/CLV)
US 301 @ Cherry Tree Crossing Road* <i>Tier 2 – Minor Street Volume Test</i>	>100 seconds <100 vehicles	>50 seconds <100 vehicles
Cherry Tree Crossing Road @ Cross Trail Road*	10.7 seconds	10.1 seconds
Cherry Tree Crossing Road @ Old Indian Head Road*	9.0 seconds	8.5 seconds
MD 381 @ Tower Road*	13.8 seconds	16.4 seconds
US 301 @ MD 381	F/2452	C/2342
*Unsignalized intersections. In analyzing two-way stop-controlled intersections, a three-step procedure is undertaken in which the greatest average delay (in seconds) for any movement within the intersection, the maximum approach volume on a minor approach, and the critical lane volume (CLV) is computed and compared to the approved standard. According to the Guidelines, all three tests must fail in order to require a signal warrant study.		

Using the trip rates from the Guidelines, the study indicated that the subject PPS represents the following trip generation:

Table 1 - Trip Generation							
		AM Peak			PM Peak		
		In	Out	Total	In	Out	Total
Single-family (Guidelines)	165 Units	25	99	124	97	52	149
<b>Total new trips</b>		25	99	124	97	52	149

The table above indicates that the development will be adding 124 (25 in; 99 out) AM peak-hour trips and 149 (97 in; 52 out) PM peak-hour trips. A third analysis depicting total traffic conditions was done, yielding the following results:

TOTAL CONDITIONS		
Intersections	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301 @ Cherry Tree Crossing Road* <i>Tier 2 – Minor Street Volume Test</i>	>100 seconds <100 vehicles	>50 seconds <100 vehicles
Cherry Tree Crossing Road @ Cross Trail Road*	10.7 seconds	10.1 seconds
Cherry Tree Crossing Road @ Old Indian Head Road*	9.0 seconds	8.5 seconds
Tower Road @ Site Access 2*	8.9 seconds	9.1 seconds
Tower Road @ Site Access 1*	8.9 seconds	9.0 seconds
MD 381 @ Tower Road*	15.7 seconds	16.6 seconds
US 301 @ MD 381	F/2492	C/2391
*Unsignalized intersections. In analyzing two-way stop-controlled intersections, a three-step procedure is undertaken in which the greatest average delay (in seconds) for any movement within the intersection, the maximum approach volume on a minor approach, and the critical lane volume (CLV) is computed and compared to the approved standard. According to the Guidelines, all three tests must fail in order to require a signal warrant study.		

The results under total traffic conditions show that the intersection of US 301 at MD 381 will operate inadequately. Consequently, the PPS is approved with a condition requiring payment to the Brandywine Road Club.

The TIS was referred out to County and state agencies for review and comment; however, as of the approval of the PPS, no comments were received from those agencies regarding the TIS.

The subject property is located within Planning Area 85A and is affected by the Brandywine Road Club. Specifically, Prince George’s County Council Resolution CR-9-2017 does the following:

- a. Establishes the use of the Brandywine Road Club for properties within Planning Areas 85A and 85B as a means of addressing significant and persistent transportation deficiencies within these planning areas.



- b. Establishes a list of projects for which funding from the Brandywine Road Club can be applied.
- c. Establishes standard fees by development type associated with the Brandywine Road Club to be assessed on approved development.

This resolution (CR-9-2017) works in concert with Prince George's County Council Bill CB-22-2015, which permits participation in roadway improvements as a means of demonstrating adequacy for transportation, as required in Section 24-124. Specifically, CB-22-2015 allows the following:

- a. Roadway improvements participated in by the applicant can be used to alleviate any inadequacy as defined by the Guidelines. This indicates that sufficient information must be provided to demonstrate that there is an inadequacy.
- b. To be subject to CB-22-2015, the subject property must be in an area for which a road club was established prior to November 16, 1993. In fact, the Brandywine Road Club was included in Council Resolution CR-60-1993 adopted on September 14, 1993, and was developed and in use before that date.

Pursuant to CR-9-2017, the Brandywine Road Club fee for the subject PPS is \$1,472 per dwelling unit (single-family), to be indexed by the appropriate cost indices to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE). Pursuant to CB-22-2015, once the appropriate payment is made to the satisfaction of DPIE, no further obligation will be required of the applicant regarding the fulfillment of transportation adequacy requirements of Section 24-124(a).

#### **Master Plan Roads**

The property is in an area where the development policies are governed by the Subregion 6 Master Plan, as well as the MPOT. The subject property currently fronts on Tower Road, which does not have any master plan designation. However, the road will require dedication of a minimum of 30 feet from the center line.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, as required, in accordance with Section 24-124.

- 11. Site Access and Layout**—The site design features two development pods, each with their own entrance point from Tower Road. All new roads are to be public. The streets do not meet the minimum curve radii standards of the County road ordinance, and so the overall design of the road network would not be deemed acceptable without an approved variation from these standards. The applicant accordingly requested a variation from Section 24-123(a)(4). This section reads as follows:

**Section 24-123.**

- (a) **The Planning Board shall require that preliminary plan conform to the following:**
- (4) **All streets proposed for dedication to public use shall be designed to the standards of the County road ordinance and street standards for width and minimum curve radii or to the standards of municipalities having jurisdiction. Variations from these standards may be granted by the Planning Board upon the recommendation of the Department of Permitting, Inspections, and Enforcement or upon the recommendation of the municipality or other governmental authority having jurisdiction.**

For subdivision streets, the 2007 *Prince George's County Department of Public Works and Transportation Specifications and Standards for Roadways and Bridges* requires a minimum curve radius of 500 feet for primary roads and 300 feet for secondary roads (page 81, Table 1-2). Six roads within the development do not meet these standards, featuring curve radii as low as 190 feet. The applicant submitted an exhibit showing the specific locations where variations are needed.

A variation from Section 24-123(a)(4) may be granted by the Prince George's County Planning Board upon the recommendation of DPIE, which will have ultimate jurisdiction over the new roads. By email dated January 12, 2021 (Formukong to Diaz-Campbell, incorporated by reference herein), DPIE provided a positive recommendation, stating, "DPIE met with CPJ [applicant's engineer] to discuss curve radii shown within certain sections of the road. DPIE agrees that by posting reduced speed limits and speed hubs, these radii are acceptable for this residential subdivision."

**Variation**

In addition to a positive recommendation from DPIE, granting this variation also requires that the criteria contained in Section 24-113 be met. The applicant provided an SOJ responding to the criteria, and conformance to the criteria is analyzed as follows:

**Section 24-113. – Variations**

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

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

The applicant contends that the requested reduction to the curve radii will not affect other properties in the area. The development is self-contained, with one road in and out of each of the two development pods. There is no opportunity for cut-through traffic. The applicant further contends that the curves will help decrease vehicle speed, thereby increasing safety through the residential neighborhood.

The SOJ also states that “the roads will be used mainly by residents and guests and service, delivery and emergency vehicles only, and not the general public.” It should be noted that the SOJ has a date of December 17, 2020 and was not updated to account for the applicant’s more recent proposal of a public trail system on-site, which may attract some members of the general public. These people would need to drive to the site to access the trail system, on account of there not being existing trail connections off-site.

Nonetheless, granting the variation will not be injurious to other property. Granting the variation will also not be detrimental to the public safety, health, or welfare, so long as the roads include any additional safety precautions required by DPIE, such as the posted reduced speed limits and speed hubs recommended in their email. These will work in conjunction with the design of the curves themselves to reduce vehicle speed within the neighborhood, for both residents and members of the public.

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

The applicant contends that unique conditions applying to the property include the historic viewshed buffer along Tower Road, the limited number of entrances to the site, and the quality of the woodland areas provided for preservation under the public benefit conservation subdivision. It does not appear that the number of entrances is unique, or that the viewshed buffer (which is to be cleared and reforested per the TCP1) would directly affect the street design.

However, the reduced radii will facilitate the creation of a development, which preserves the site’s existing wetland and woodland, for the purposes of the public benefit conservation subdivision. The roads, as designed, allow for a more compact development, which leaves more space open for preservation.

The conservation area is unique to the property and is an appropriate condition on which to base the variation.

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

No other applicable law, ordinance, or regulation would be violated by approval of this variation. This variation request is under the sole authority of the Planning Board, excepting that DPIE must provide a recommendation in support of the variation, which has been received. The ultimate design of the roadways is under the authority of DPIE.

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

The applicant contends that the wetlands and woodlands to be preserved, the limited opportunities for access, and the viewshed buffer place constraints on the developable area of the site. Without the variation, the roads cannot achieve a design that would avoid encroaching on the conservation areas, which would contradict the purpose of a conservation subdivision.

If the variation is not granted, the roads could not achieve the compact design currently shown, and they may need to be redesigned in such a way that they would reduce the area of the conservation area or make it less cohesive. The applicant may not be able to meet the strict requirements of a conservation subdivision under Section 24-152, which would pose a hardship to the applicant as it would require further redesign of the subdivision and likely loss of lots and/or conservation area. The hardship derives from the shape and topographical conditions of the property, as the topography creates the wetlands, which are both targets of preservation and constraints on where roads can be built.

- (5) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113(a), above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the Prince George's County Code.**

Because this property is in the R-R Zone, this requirement does not apply.

The site is unique to the surrounding properties, and the variation is supported by the required findings, so long as appropriate safety measures are put in place to reduce vehicle speed within the neighborhood. The appropriate safety measures should be determined by DPIE and shall be constructed by the applicant. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Therefore, the variation from Section 24-123(a)(4) is approved, to allow the curve radii widths requested by the applicant and shown on their exhibit and the PPS.

### **Outparcel**

The PPS includes an existing parcel known as Parcel 100 (one of two on the site with that designation), which is separated from the rest of the property by a PEPCO ROW on the north side of the development. No access, either vehicular or pedestrian, is provided to this parcel, nor is any development proposed on it. The parcel does not have any street frontage by which access could be provided in the future. Therefore, its redesignation as Outparcel 1 with this subdivision is found to be appropriate. The parcel will not meet the requirements of the Subdivision Regulations for adequate public facilities, due to the lack of access provisions.

### **Vacation**

The site includes a portion of the public ROW of Redwood Avenue, a partially improved street created with the recordation of the plat in Plat Book WWW 29 p. 91. This street was originally platted to serve 16 lots, but only two of those lots were developed. The improved portion of the street only extends as far west as needed to serve the two lots; farther west it is occupied by existing woodlands. The applicant proposes to vacate the unimproved portion of the street and incorporate its land area into the subject property. The land will be used partially as HOA open space and partially as conservation area.

The remaining portion of the Redwood Avenue ROW will be over 150 feet long, and a ROW of that length with only one access point would typically require a turnaround at the stub end. The PPS does not show dedication of ROW for a turnaround. However, at the DPIE Site/Road Plan Review Division and M-NCPPC staff meeting held on March 30, 2021, a representative of DPIE stated that, although Redwood Avenue is owned by the County, it is not maintained by the County, and construction of a turnaround would therefore not be requested. Dedication for a turnaround is therefore not appropriate at this time.

In order to accomplish the vacation, the project will be subject to a separate vacation application. Ultimate determination of the acceptability of the vacation proposed will occur with that application. The vacation petition will be referred to DPIE for their concurrence with the remaining ROW configuration proposed. This vacation must be approved, prior to approval of a final plat.

12. **Schools**—This PPS has been reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2001. The subject property is located within Cluster 5, which is located outside the I-95/I-495 Capital Beltway. An analysis of the development's impact on schools was conducted and the results are as follows:

**Impact on Affected Public School Clusters by Dwelling Units  
 Single-family Attached/Detached Dwelling Units**

<b>Affected School Clusters #</b>	<b>Elementary School Cluster 5</b>	<b>Middle School Cluster 5</b>	<b>High School Cluster 5</b>
Total Dwelling Units	165	165	165
Single-family Dwelling	165	165	165
Single-family Dwelling (PYF)	0.158	0.098	0.127
SFD * PYF	26.07	16.17	20.95
Total Future Subdivision Enrollment	26	26	21
Adjusted Enrollment in 2019	6,428	2,797	3,668
Total Future Enrollment	6,454	2,813	3,689
State Rated Capacity	7,913	3,304	5,050
Percent Capacity	81%	85%	73%

Section 10-192.01 of the Prince George’s County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$9,741 per dwelling if a building is located between the I/95/I-495 Capital Beltway and the District of Columbia; \$9,741 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; or \$16,698 per dwelling for all other buildings. This project is outside of I-95/I-495; thus, the surcharge fee is \$16,698 per dwelling unit. This fee is to be paid to DPIE at the time of issuance of each building permit.

13. **Public Facilities**—In accordance with Section 24-122.01, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated April 2, 2021 (Thompson to Diaz-Campbell), incorporated by reference herein.
14. **Use Conversion**—The total development included in this PPS is for 165 single-family attached dwellings in the R-R Zone. If a substantial revision to the mix of uses on the subject property is proposed, including any nonresidential development, that affects Subtitle 24 adequacy findings, as set forth in this resolution of approval and reflected on the PPS, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.
15. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a), when utility easements are required by a public company, the subdivider shall include the following statement in the dedication documents recorded on the final plat:

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

The standard requirement for PUEs is 10 feet wide along both sides of all public ROWs. The subject site abuts Tower Road to the southeast, and the PPS demonstrates that the required PUE will be provided along this road. However, the site also abuts the improved portion of Redwood Avenue and contains the unimproved portion. PUEs must also be provided along the portion of Redwood Avenue to remain after the vacation is complete. PUEs will not be required along the portion of Redwood Avenue which is proposed to be vacated. The conservation subdivision easement abuts the south side of Redwood Avenue and will need to have its boundary adjusted, as necessary, so not to encumber any PUE to be provided along the ROW.

New internal public streets are provided for the subdivision, and the PPS shows that the required PUEs will be provided for these streets.

**16. Historic**—Findings for Historic Preservation are made, as follows:

- a. A Phase I archeological survey was conducted on the Brandywine Woods Subdivision property in July 2008 for a previous application, S-07018. Three archeological sites, 18PR896, 18PR897, and 18PR957 were identified on the property. Site 18PR896 is a 20th century domestic site located in the southwest portion of the property. Site 18PR897 is a late 19th to early 20th century possible tenant house, located in the north central part of the property. A portion of the property was not surveyed in the initial Phase I survey and staff requested additional investigations. One archeological site, 18PR957, was delineated and one house site, the James Brooks House, was also identified in the southern part of the survey area and was recorded on a Maryland Inventory of Historic Properties form (85B-021). Site 18PR957 is a prehistoric lithic scatter related to a short-term occupation to acquire raw materials for tool manufacture. A final Phase I archeological report was submitted for the area, where sites 18PR896 and 18PR897 are located. A draft Phase I report was submitted for the area, where site 18PR957 is located, but a final report was not submitted.
- b. The subject property was part of three separate tracts, all with separate ownership histories. The two historic archeological sites are located on a tract that was shown as Lot No. 5 in the division of the William H. Early Estate. William H. Early acquired a 150-acre tract from the estate of Theodore Wall in 1863. Theodore Wall married Margaret Townshend (daughter of Samuel Townshend, Jr.) on December 1, 1806. An advertisement for the sale of the property in 1859 noted that, “This land is susceptible of improvement by the use of clover and plaster, and is now in a good state of cultivation, and has upon it an abundance of wood and water. The improvements consist of a dwelling house, out-houses, one tobacco house, etc.” The advertisement also noted that this was the tract of land upon which Theodore Wall resided at the time of his death and that was now in the possession of Mrs. Jane Townshend.

William H. Early retained possession of this tract until his death in 1890. The portion of William H. Early's estate that included the location of site 18PR897, was allotted to his daughter, Margaret R. Early. She retained possession of the tract until 1948, when the land was sold to Dawson L. Jones.

- c. The subject PPS contains additional land on its southern boundary that was not previously surveyed for archeological resources. However, the area is within the Joint Base Andrews Land Use Control Area. Due to previous disturbance in this area, Phase I archeological investigations are not required.
- d. No further archeological work is required on sites 18PR896 and 18PR957. A final Phase I report shall be submitted for work performed on the entire property. A copy of the final Maryland Inventory of Historic Properties form for the house recorded as 85A-021 shall be submitted to the Historic Preservation Section and to the Maryland Historical Trust. No further work was recommended on site 18PR896, due to modern disturbance and the lack of intact cultural deposits around the remains of the dwelling at the site.
- e. Site 18PR897 appeared to contain intact cultural deposits and probably represented a late 19th to early 20th century tenant occupation of the Brandywine Woods Subdivision property. Therefore, this site was found likely to contain information that could contribute to the understanding of late 19th and early 20th century tenant farming in Prince George's County. Phase II investigations were recommended on site 18PR897 to determine its boundaries and the extent of intact cultural deposits and features. A Phase II work plan was submitted to and approved by Historic Preservation staff.
- f. A Phase II archeological evaluation of site 18PR897 was conducted on the subject property in December 2020. The draft Phase II report was submitted to the Planning Department on January 29, 2021. Historical background research indicated that the site was located on tracts of land that were part of land patents known as "Pocosin" and "The Widow's Trouble." No structures are indicated in this location on historic maps or are visible in historic aerial photographs.

Phase II investigations consisted of the excavation of close interval shovel test pits (STP) spaced 5–10 meters apart, followed by the placement of four 1 by 1 meter test units in areas with the highest concentration of artifacts. A total of 273 STPs and four 1 by 1 meter test units were excavated. Nine STPs contained historic material, yielding 81 artifacts, a majority of which were recovered from 20th-century bottle dumps in the northern portion of the site. All artifacts were recovered from Stratum 1. Artifact groups included architectural and cosmetic. Artifacts from the architectural group included unidentified brick and asbestos. Domestic artifacts were represented by ceramics (primarily whiteware and Albany slipped stoneware) and machine-made bottle glass (canning jars, cold cream jars). No subsurface features were identified.



No further work was recommended on site 18PR897, as no additional archeological investigations are necessary on site 18PR897. Three hard copies and three digital copies of the final Phase II report for site 18PR897 shall be submitted to Historic Preservation staff, prior to issuance of a grading permit.

17. **Environmental**—The subject PPS and a TCP1 were accepted on December 18, 2020. Comments were provided in an SDRC meeting on January 8, 2021. Revised information was received on January 28, 2021 and March 8, 2021.

The following applications and associated plans for the subject site applicable to this case were previously reviewed:

Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
TCP2-005-96	TCP2-005-96	Planning Director	Approved	2/10/1995	N/A
TCP2-024-09	TCP2-024-09 Off-site Bank	Planning Director	Approved	4/2/2003	N/A
TCP2-062-99	TCP2-062-99 Timber Harvest	Planning Director	Approved	6/14/1999	N/A
4-02121	TCP1-04-03	Planning Board	Withdrawn	N/A	N/A
NRI-005-06	N/A	Planning Director	Approved	4/13/2006	N/A
S-06001	N/A	Planning Director	Expired	N/A	N/A
4-07004	TCP1-04-03	Planning Board	Withdrawn	N/A	N/A
S-07018	N/A	Planning Director	Expired	N/A	N/A
NRI-005-06-01	N/A	Planning Director	Approved	8/25/2017	N/A
S-14001	N/A	Planning Director	Approved	7/31/2019	N/A
4-20021	TCP1-022-2020	Planning Board	Pending	Pending	Pending

**Grandfathering**

The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 that came into effect on September 1, 2010 because the application is for a new PPS.

**Site Description**

The property is currently used partially as a tree mitigation site; the area of existing woodland conservation bank is to be relocated off-site. A review of available information, and as shown on the approved Natural Resources Inventory (NRI), indicates that wetlands, streams, and steep

slopes are found to occur on the property. The site does not contain any wetlands of special state concern. The site is located in two watersheds, as mapped by the Maryland Department of Natural Resources (DNR). The northern portion of the property is mapped by DNR in the middle Patuxent River watershed, and the southern portion of the property is mapped by DNR in the lower Potomac River watershed. The Prince George's County Department of the Environment (DOE) watershed map shows the entire site is within the Mataponi Creek watershed of the Patuxent River basin. The site is relatively flat, but the southern portion of the site generally drains from the east to the west, and the northern portion of the site generally drains to the north. Based on the site's topography, it appears that DNR mapping aligns more closely to the existing site conditions than DOE mapping. The Lower Potomac is identified by DNR as a Stronghold watershed. The on-site stream is not a Tier II water, but it is within a Tier II catchment (Mattawoman Creek 1).

The predominant soils found to occur, according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, include the Aquasco silt loam (0-2 percent to 2-5 percent slopes), Aquasco-Urban land complex (0-5 percent slopes), Beltsville silt loam (2-5 percent slopes), Lenni and Quindocqua soils (0-2 percent slopes), and Marr-Dodon complex (10-15 percent and 15-25 percent slopes) soils. Marlboro and Christiana clays are not found to occur on this property. According to available information from the DNR Natural Heritage Program, rare, threatened, and endangered species are not found to occur on-site. The property abuts Tower Road, an historic roadway. According to the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan), the site contains regulated areas and evaluation areas. The site is located within the Established Communities of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035.

The property adjacent to the south of this PPS is the Brandywine Defense Reutilization Marketing Office, which is identified as a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) site, due to past chemical contamination. The site was cleaned of the contaminants, but will remain under investigation by the Joint Base Andrews Air Force Base and progress will be monitored by the Prince George's County Health Department. Along this common property line, the PPS shows 6.50 acres of woodland preservation as a buffer to the residential lots. As there is a potential for groundwater contamination, due to the proximity of the CERCLA site, public water is recommended by the Health Department, and public water will be provided for the development of 4-20021.

#### **Master Plan Conformance**

The site is located within the Subregion 6 Master Plan area. It is mapped with environmental regulated and evaluation areas within the Green Infrastructure Plan.

### **Subregion 6 Master Plan**

The Subregion 6 Master Plan contains environmentally related policies and strategies that are applicable to the subject PPS. The following policies and strategies are applicable to the subject PPS. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

### **Woodland Conservation and Tree Preservation Ordinance**

**Policy 1: Protect, preserve, and restore the identified green infrastructure network and areas of local significance within Subregion 6 in order to protect critical resources and to guide development and mitigation activities.**

#### **Strategies**

- 1. Protect priority areas that will meet multiple protection objectives such as those related to green infrastructure, the priority preservation area, and the Patuxent River Rural Legacy Program. • Update and centralize geographic information from county, state, and other agencies to allow for an efficient, initial evaluation of potential protection measures as they relate to land development proposals and potential sites for acquisition with public funds for conservation easements or passive recreation.**
- 2. Protect primary corridors (Patuxent River, Charles Branch, Collington Branch, Piscataway Creek, Mattawoman Creek, and Swanson Creek) during the review of land development proposals to ensure the highest level of preservation and restoration possible, with limited impacts for essential development elements. Protect secondary corridors to restore and enhance environmental features, habitat, and important connections.**
- 3. Preserve and connect habitat areas to the fullest extent possible during the land development process.**
- 4. Preserve or restore regulated areas designated in the green infrastructure network through the development review process for new land development proposals.**
- 5. Protect portions of the green infrastructure network outside the primary and secondary corridors to restore and enhance environmental features, habitat, and important connections.**
- 6. Evaluate land development proposals in the vicinity of SCAs to ensure that the SCAs are not negatively impacted and that green infrastructure connections are either maintained or restored.**
- 7. Preserve and enhance, where possible, grassland habitats that are of critical importance to native and migratory bird species.**

The development of a conservation subdivision includes conservation parcels that will have a conservation subdivision easement recorded to protect the streams, wetland systems, and tracts of contiguous woodland, in conformance with the Green Infrastructure Plan. A TCP1 was submitted with this PPS and is discussed in detail in the Environmental Review section of this finding.

### **Water Quality and Stormwater Management**

**Policy 2: Restore and enhance water quality in degraded areas and preserve water quality in areas not degraded.**

#### **Strategies**

- 1. Protect and restore groundwater recharge areas such as wetlands and the headwaters areas of streams and watersheds.**
- 2. Develop an interjurisdictional development and management plan with Charles County for the protection of the Mattawoman watershed.**
- 3. Require retrofitting of locations without stormwater management, or with poorly performing facilities, as they are identified during the development review process.**
- 4. Define and identify operations and activities that create stormwater management “hot spots” to adjust development and enforcement as necessary for pollution prevention.**
- 5. Require private developers to perform stream corridor assessments, where one has not already been conducted, when development along stream corridors without completed assessments is proposed. Use the outcome of these assessments to guide restoration requirements upon which development approval will be contingent.**
- 6. Complete stream corridor assessments for all watersheds in the subregion in support of the countywide watershed restoration efforts.**
- 7. Require environmentally-sensitive site design which includes limiting impervious surfaces and implementing best practices in on-site stormwater management to reduce the impact of development on important water resources.**
- 8. Update the county road code and parking standards to reduce impervious surface requirements, without compromising safety, in watersheds where development pressure is great and impervious surface coverage is, or is projected to reach, more than ten percent of the watershed (e.g., Western Branch, Mattawoman, etc.).**

**9. Evaluate current right-of-way requirements and opportunities for bioretention and on-site stormwater management in watersheds with ten percent or greater impervious surface.**

The northern portion of the property is in the Mataponi watershed of the Patuxent River basin, and the southern portion of the property is in the Mattawoman watershed of the Potomac River basin. The Mattawoman Creek Stream Valley is designated as a special conservation area in the Green Infrastructure Plan. Areas identified as special conservation area contain unique environmental features that should be carefully considered when land development proposals are reviewed in the vicinity. It should be ensured that their ecological functions are protected or restored and that ecological connections are established to the areas or maintained.

The site contains an extensive wetland system, part of which is within a regulated area of the network. The current plan preserves the system within conservation parcels. The most current design goes above and beyond preservation of the wetland by also preserving a significant portion of woodland outside of the wetland buffer, which is consistent with the goal of the conservation subdivision regulations.

The project has not yet received SWM concept approval. The submitted unapproved concept plan shows use of numerous bioswales and grass swales along the residential roads, as well as stormdrain outfalls that do not impact the PMA to meet the current requirements of environmental site design to the maximum extent practicable.

**Policy 3: Increase planning and informational data collection efforts at the watershed level, raising the profile and awareness about the importance of shared aquifers and other resources to water quality and supply.**

**Strategies**

- 1. Promote agricultural and other resource industry practices which support environmental restoration such as conservation tillage, intercropping, and crop rotation, integrated pest management, etc., to contribute to healthier waterways and provide wildlife habitat.**
- 2. Centralize and disseminate information to landowners about best practices in land management, as well as financial and other program incentives available to do so.**
- 3. Educate homeowners about alternatives to conventional lawn care to reduce the runoff of nutrients to waterways, including the use of rain gardens to promote bioretention and provide backyard habitat.**
- 4. Require the application of a conglomerate stream buffer, similar to the one that applies in the Patuxent PMA, in all areas of the subregion.**

5. **Work with the Patuxent River Commission to implement the Patuxent River Policy Plan, a multi-agency effort to protect the river through land management and pollution control practices.**
6. **Monitor the short- and long-term impact of climate change on the Patuxent River, including increased saltwater intrusion and potential impacts to aquifers and drinking water supplies.**
7. **Require the use of low-nitrogen septic systems in the Rural Tier portion of the subregion within 1,000 feet of any stream or tributary.**
8. **Investigate the status and number of monitoring wells in the county to determine if support for a greater number is required.**

The PPS does not propose an agricultural use. Environmental site design is proposed for the project's SWM, utilizing bioswales and grass swales. Septic systems and wells are not proposed.

#### **Green Building/Energy Efficiency**

**Policy 8: Reduce energy usage from lighting, as well as light pollution and intrusion into residential, rural, and environmentally sensitive areas.**

#### **Strategies**

1. **Encourage the use of alternative and energy-saving lighting technologies for athletic fields, shopping centers, gas stations, and car lots so that light intrusion on adjacent properties is minimized. Limit the amount of light output from these uses.**
2. **Require the use of full cut-off optic light fixtures for all proposed uses to reduce sky glow.**

The minimization of light intrusion from this site onto the conservation areas on the site is a concern. No lighting plan was submitted with this PPS. The use of alternate lighting technologies and the limiting of total light output shall be demonstrated, prior to the first building permit. Full cut-off optic light fixtures shall be used. The use of streetlights and entrance lighting, except where warranted by safety concerns, is discouraged.

#### **Conformance with the 2017 Green Infrastructure Plan**

The site contains regulated and evaluation areas of the Green Infrastructure Plan. This area is comprised of a stream system with an extensive wetland network.

The Green Infrastructure Plan was approved with the adoption of the *Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017) on March 7, 2017. According to the approved Plan, the site contains regulated areas, while the remainder of the site is an evaluation area.

The following policies and strategies are applicable to the subject PPS. The text in **BOLD** is the text from the master plan, and the plain text provides comments on plan conformance.

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

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

The northern portion of the property is in the Mataponi watershed of the Patuxent River basin, and the southern portion of the property is in the Mattawoman watershed of the Potomac River basin. The Mattawoman Creek Stream Valley is designated as a special conservation area in the Green Infrastructure Plan. Areas identified as special conservation area contain unique environmental features that should be carefully considered when land development proposals are reviewed in the vicinity. It should be ensured that their ecological functions are protected or restored and that ecological connections are established and or maintained to the areas.

The site contains an extensive wetland system, part of which is within a Regulated Area of the network. The current plan preserves most of the system within conservation parcels, except for one area where water and sewer infrastructure is to be provided. The most current design goes

above and beyond preservation of the wetlands by also preserving a significant portion of woodland outside of the wetland buffer, which is consistent with the goal of the conservation subdivision regulations.

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

- 2.4 Identify Network Gaps when reviewing land development applications and determine the best method to bridge the gap: preservation of existing forests, vegetation, and/or landscape features, and/ or planting of a new corridor with reforestation, landscaping and/or street trees.**
- 2.5 Continue to require mitigation during the development review process for impacts to regulated environmental features, with preference given to locations on-site, within the same watershed as the development creating the impact, and within the green infrastructure network.**
- 2.6 Strategically locate off-site mitigation to restore, enhance and/or protect the green infrastructure network and protect existing resources while providing mitigation.**

The PPS indicates that the regulated system on-site will be fully preserved, with the exception of 149.80 square feet (0.003 percent of total PMA) of disturbance to the wetland buffer for a Washington Suburban Sanitary Commission (WSSC) easement. The design results in minimal network gaps, as the plan adequately preserves a connected wooded wetland system, in addition to other conservation areas. A TCP is required with this review, and it shows more than the minimum woodland conservation requirement will be met on-site as preservation.

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

- 3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.**
  - a. Provide wildlife and water-based fauna with safe passage under or across roads, sidewalks, and trails as appropriate. Consider the use of arched or bottomless culverts or bridges when existing structures are replaced, or new roads are constructed.**

The 44-foot-wide WSSC easement has been located in an area that will minimize fragmentation. Although this utility easement impacts wetland buffers, its location results in a more contiguous preservation of the wooded wetland system. Environmental impacts, due to the WSSC easement, is evaluated further in the Environmental Review section of this finding.



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

There is a master-planned trail within the shared ROW of Tower Road. The applicant proposes an on-site pedestrian trail network through the conservation areas. Environmental impacts related to off-site and on-site trail connections will be minimized during the alignment and construction of the trail, in accordance with subdivision and zoning requirements. A limited DSP is required for the design and location of the on-site pedestrian trail network to avoid additional environmental impacts.

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

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

At the time of final plat, separate, overlapping easements will be required for areas retained within the PMA, and areas conserved within the conservation parcels, as part of the public benefit conservation subdivision. The easement encumbering the PMA is known as the conservation easement, while the easement encumbering the conservation parcels is known as the Conservation Subdivision Easement or the Public Benefit Conservation Subdivision Easement. On-site woodland conservation will also be required to be placed in a third, separate type of easement known as the “Woodland and Wildlife Habitat Conservation Easements,” prior to the approval of the TCP2.

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

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

The project has not yet received SWM concept approval. The submitted unapproved concept plan shows use of numerous bioswales and grass swales along the residential roads, as well as stormdrain outfalls that do not impact the PMA to meet the current requirements of environmental site design to the maximum extent practicable. The Site/Road Plan Review Division of DPIE will review the project for conformance with the current provisions of the county code that addresses the state regulations.

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

*General Strategies for Increasing Forest and Tree Canopy Coverage*

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

Based on the TCP1, the design will exceed the minimum tree canopy coverage requirement. The tree canopy requirement for the R-R Zone is 15 percent, the TCP1 shows 44 percent of the gross tract area in woodland conservation. Retention and planting of native species on-site is required by both the Environmental Technical Manual and Landscape Manual.

*Forest Canopy Strategies*

- 7.12 Discourage the creation of new forest edges by requiring edge treatments such as the planting of shade trees in areas where new forest edges are proposed to reduce the growth of invasive plants.**
- 7.13 Continue to prioritize the protection and maintenance of connected, closed canopy forests during the development review process, especially in areas where FIDS habitat is present or within Sensitive Species Project Review Areas.**
- 7.18 Ensure that new, more compact developments contain an appropriate percentage of green and open spaces that serve multiple functions such as reducing urban temperatures, providing open space, and stormwater management.**

Clearing of woodland is included with the subject PPS. Woodland conservation is designed to minimize fragmentation and reinforce new forest edges. The retention of potential forest interior dwelling species (FIDS) habitat and green infrastructure corridors is included with TCP1-022-2020. Green space is encouraged in compact developments to serve multiple eco-services.

**POLICY 12: Provide adequate protection and screening from noise and vibration.**

- 12.2 Ensure new development is designed so that dwellings or other places where people sleep are located outside designated noise corridors. Alternatively, mitigation in the form of earthen berms, plant materials, fencing, or building construction methods and materials may be used.**

Protection of dwellings from noise and vibration, associated with the adjacent railroad ROW, is evaluated in the Noise finding of this resolution.

**Sketch Plan Approval for Conservation Subdivision**

The sketch plan process was completed for the Brandywine Woods Conservation Subdivision. The sketch plan was certified on July 31, 2019 and prioritizes the developable areas and preferred conservation areas.

**Public Benefit Conservation Subdivision Ordinance Conformance**

Section 24-152(c) provides the purpose of a public benefit conservation subdivision, as follows.

- (c) Purpose of a Public Benefit Conservation Subdivision. The purpose of a Public Benefit Conservation Subdivision is to prioritize site characteristics which conserve important site features such as open space networks and contiguous woodland habitats adjacent to other existing open space tracts. The site design should encourage connectivity between environmental characteristics of adjacent properties and should provide a continuous open space network between the proposed development layout and the adjacent properties. Intermodal trails which provide a link to adjacent properties as an enhancement of recreational opportunities are encouraged.**

The PPS is for a public benefit conservation subdivision that focuses on the preservation of the environment. Woodland conservation is designed to minimize fragmentation and reinforce new forest edges. The retention of potential FIDS habitat and green infrastructure corridors is provided with TCP1-022-2020, through the conservation parcels, which will preserve the connection to the FIDS habitat in the established tree mitigation bank, located on the east side of Tower Road, Tower Preserve, TCP2-218-92-03.

The following code requirements pertain to environmental findings and are applicable to the subject PPS. The text in **BOLD** is the text from Section 24-152, Conservation Subdivisions, and the plain text provides comments on code conformance.

**(g) Conservation area.**

- (1) The conservation area shall be located on a parcel or lot and characterized as primarily scenic, agricultural, historic, or environmental, or any combination.**

The PPS provides conservation areas within 8 out of the 17 total parcels; all conservation parcels are focused to conserve the environment.

- (A) A conservation easement for the purpose established on the preliminary plan shall be placed on the conservation area at the time of final plat. The conservation area shall be designated as either a parcel or a lot on the sketch plan, preliminary plan, and final plat.**

A draft conservation subdivision easement was reviewed and shall be placed on the final plat.

- (i) A conservation parcel that includes stormwater management facilities and septic recovery areas associated with the residential development area shall be conveyed to the homeowners' association.**

Minimal stormwater facilities are included within the conservation parcels and are limited to stormwater outfalls. Septic recovery areas are not proposed with 4-20021. All conservation parcels are to be conveyed to the HOA.

- (ii) A conservation lot may support one dwelling unit. Stormwater management or septic recovery areas not associated with the single-family dwelling unit on the conservation lot shall not be permitted.**

Conservation lots are not proposed.

**(2) Design criteria for conservation areas.**

- (A) The area of the site required for a conservation parcel or lot shall be determined based on the priorities established in the review of the sketch plan, may include areas of the site not otherwise more specifically regulated by this Subtitle, and should be one parcel or lot to the extent possible.**

The area of the site used for conservation parcels was determined based on the priorities established in the sketch plan. The conservation area includes areas of woodlands that would not otherwise be required for

conservation under Subtitle 24. The number of conservation parcels has been minimized to the extent practical.

- (B) Conservation areas shall connect with existing and potential conservation areas on abutting sites to encourage corridors of compatible site characteristics, unless it is found to be impractical due to topography, spacing or existing natural barriers.**

The FIDS habitat and Green Infrastructure Plan corridors on-site are strengthened with the connectivity of neighboring sites, such as the Tower Preserve tree mitigation bank (TCP2-218-92-030). The conservation parcels total approximately 48 percent of the gross area of the site, which is above the 40 percent requirement by Subtitle 24-152(d)(3).

- (C) Naturally, contiguous conservation areas shall not be divided for the sole purposes of obtaining allowable density.**

The conserved areas are not divided for the purpose of obtaining allowable density.

- (D) Fragmentation of the conservation area into small, irregularly shaped conservation parcels and lots shall be avoided.**

Large areas of the site are shown as continuous areas of woodland preservation and conservation of the regulated environmental features, and fragmentation of the environmental features is not proposed.

- (E) Farm structures shall be retained whenever possible.**

- (F) The subdivision layout shall be designed to minimize potential adverse impacts on existing farm operations.**

Farm structures and operations are not present on the site or on abutting sites.

- (G) Woodland and wildlife habitat conservation required for the area of conservation parcels or lots may be provided at an off-site location, only if it is necessary to preserve the rural and agricultural landscape.**

All woodland preservation requirements are to remain on-site.

- (H) Septic recovery areas and stormwater management facilities may be located on a conservation parcel to be maintained by the**

**homeowners' association if there is no adverse impact to the character of that area of land, and it is demonstrated that the residential development area cannot support these facilities. Stormwater management facilities in conservation parcels should not include typical dry ponds with associated steep slopes, dams, mowed areas, fencing or unsightly overflow structures. Farm ponds, bioretention ponds, naturally contoured ponds and wet ponds with wetland edges and no visible structures are permitted on the conservation parcel which is to be maintained by the homeowners' association. Septic recovery areas within conservation parcels to be maintained by the homeowners' association should be designed to appear to be part of the existing landscape.**

Septic recovery areas are not proposed. Minimal stormwater facilities are included within the HOA conservation parcels and are limited to stormwater outfalls. There is no adverse impact to the character of that area of land from these outfalls and there are no visible structures. The residential development area cannot support these facilities.

**(i) Scenic and historic roads. Development along a designated scenic or historic road shall conform to the following standards:**

Tower Road is a scenic and historic roadway.

**(1) There should be no views of the rears of dwellings from the road.**

The plan includes woodland preservation and reforestation along the frontage of Tower Road, which will be placed in a woodland and wildlife habitat conservation easement. This woodland preservation will ensure that there will be no views of the rears of the houses from Tower Road.

**(2) Engineered berms for screening purposes are not permitted unless they are constructed to mimic natural contours.**

Engineered berms are not proposed.

**(3) Fencing along the road shall be rural in character.**

Fencing is not proposed along Tower Road.

**(4) Views from scenic and historic roads shall be preserved or may be created through the installation of landscaping that mimics natural conditions.**

The reforestation along Tower Road will mimic natural conditions.

- (5) **Trees and vegetation shall not be removed within the required setback unless in accordance with an approved tree conservation plan.**

The TCP1 provides for removal and reforestation of trees adjacent to Tower Road, in order to accomplish grading needed for the residences.

- (6) **Existing slopes and tree tunnels along the street frontage should be retained, unless required to be removed by the Department of Public Works and Transportation (DPW&T) or the State Highway Administration (SHA) for frontage improvements.**

Slopes adjacent to the roadway may need to be altered for the purpose of making frontage improvements, namely, the installation of the required sidewalk.

- (7) **Buildings that are located within two hundred (200) feet from the street should be sited such that the principal entrance is oriented toward the street.**

Though the closest dwellings to Tower Road are within 200 feet of the street, it is not feasible to orient these dwellings so that their principal entrances face Tower Road. The dwellings take access from Bay Drive, within the subdivision, in order to minimize the number of access points from Tower Road, and woodland reforestation is provided between the dwellings and Tower Road.

- (8) **A scenic easement shall be provided along the frontage of a designated scenic or historic road abutting the 10-foot public utility easement. The scenic easement shall be a minimum of forty (40) feet and increased where appropriate to retain unique characteristics of the scenic and historic character of the road.**

A scenic easement shall be placed along the frontage of the road, and is currently labeled on the plans as a 40-foot-wide viewshed buffer. A portion of this easement will overlap the conservation subdivision easement on Parcels F and H. The scenic easement will also encumber Parcels A and N.

- (9) **In general, access (public and private) to a scenic or historic road should be limited to the extent possible unless for safety reasons or for some other benefit such as environmental preservation, or to implement the stated purposes of this Division.**

The PPS includes a minimal two access points in order to limit impacts to the environment.

- (10) **Septic recovery areas shall not be permitted within the scenic easement, unless determined appropriate.**

No septic recovery areas are proposed.

- (h) **Residential development area.**

- (4) **Stormwater management. The applicant shall utilize low impact development (LID) techniques, unless otherwise authorized by the Department of Permitting, Inspections, and Enforcement. For purposes of this Section, "low impact development (LID) techniques" refer to stormwater management designs that accommodate stormwater through the use of existing hydrological site features and by reducing impervious surfaces (roadways), curbs, and gutters; decreasing the use of storm drain piping, inlet structures; and eliminating or decreasing the size of stormwater ponds. Due to the constraints associated with the lot sizes in a Public Benefit Conservation Subdivision, traditional stormwater management designs and practices may need to be utilized, particularly adjacent to lots of less than twenty thousand (20,000) square feet where urban street construction utilizing sidewalks should be provided. However, the use of LID and integrated management practices shall be encouraged to enhance stormwater management. Such integrated management practices may include bioretention, dry wells, filter buffer, infiltration trenches and similar techniques.**

An unapproved SWM concept plan has been submitted, which shows the use of environmental site design/low impact development with 30 bioswales and 7 grass swales along the residential roads and stormdrain outfalls. None of the proposed stormwater facilities impact the PMA. An alternative rural residential road section is proposed, as shown in a street section exhibit provided by the applicant with the submission, dated March 2021. This section includes a sidewalk along one side of the internal roads, and swales along both sides. This proposed road section reduces impervious surfaces comparatively to traditional residential road sections with sidewalks along both sides. The stormwater is proposed to be treated with the bioswales and grass swales instead of traditional stormwater ponds. Should the plan be revised to include sidewalk along both sides of each road, as provided in the Bicycle/Pedestrian finding of this resolution, the SWM concept plan will need to be revised to account for the additional impervious area and the likely loss of swales along at least one side of the internal roads. Additional SWM areas may be needed, which will need to utilize low impact development.



## **ENVIRONMENTAL REVIEW**

### **Natural Resource Inventory Plan**

A signed NRI-005-06-01 was submitted with the PPS. The site contains wetlands, streams, and associated buffers that comprise the PMA. The NRI indicates the presence of four forest stands, labeled as stands A through D, and 10 specimen trees identified on-site, with 2 specimen trees off-site, but within 100-feet of the property line. The TCP1 and the PPS show all required information correctly, in conformance with the NRI. No additional information is required regarding the NRI.

### **Woodland Conservation**

This site is subject to the provisions of the WCO and Environmental Technical Manual because the project is for a new PPS. TCP1-022-2020 has been submitted with the subject PPS and requires minor revisions to be found in conformance with the WCO.

The woodland conservation threshold (WCT) for this 106.62-acre property is 20 percent of the net tract area or 21.32 acres. The total woodland conservation requirement based on the amount of clearing is 34.64 acres. The PPS is for an environmental public benefit conservation subdivision, which requires the applicant to provide substantially more woodland conservation on the site than what is required. The woodland conservation requirement is to be satisfied with 44.78 acres of on-site preservation and 2.35 acres of on-site afforestation, totaling 47.13 acres of woodland conservation, or 44.2 percent of the gross tract area. The 47.13 acres of on-site woodland conservation is significantly more than the 34.64-acre requirement, thus satisfying the woodland conservation goals of an environmental conservation subdivision.

Technical revisions to the TCP1 are required and included in the conditions of approval.

### **Specimen Trees**

Tree conservation plans are required to meet all of the requirements of Subtitle 25, Division 2, of the County Code which includes the preservation of specimen trees pursuant to Section 25-122(b)(1)(G). Every effort should be made to preserve the trees in place, considering the different species' ability to withstand construction disturbance (refer to the Construction Tolerance Chart in the Environmental Technical Manual for guidance on each species' ability to tolerate root zone disturbances).

If, after careful consideration has been given to the preservation of the specimen trees, there remains a need to remove any of the specimen trees, a variance to Section 25-122(b)(1)(G) is required. Applicants can request a variance to the provisions of Division 2 of Subtitle 25 (WCO) provided all of the required findings in Section 25-119(d) of the WCO can be met. 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 an SOJ in support of a variance dated October 29, 2020 were submitted.

The SOJ proposed removal of 9 of the existing 10 specimen trees located on-site. Specifically, the applicant seeks to remove trees 4–12. The TCP and specimen tree removal exhibit show the

location of the trees proposed for removal. The specimen trees proposed for removal are in fair condition, located on-site, outside of the PMA, and within the upland residential development areas.

**SPECIMEN TREE SCHEDULE SUMMARY FOR 9 TREES  
 PROPOSED FOR REMOVAL ON TCP1-022-2020**

ST #	COMMON NAME	DBH (in inches)	CONDITION	APPLICANT'S PROPOSED DISPOSITION	NOTES/ RECOMENDATIONS
4	Yellow Poplar	37	Fair	Remove	V-fork, Trunk, and top damage, branching, dieback
5	Yellow Poplar	34	Fair	Remove	V-fork, trunk, and top damage, branching, dieback
6	Sweetgum	32	Fair	Remove	V-fork, trunk, and top damage, cavity, decay, dieback, insects
7	Willow Oak	54	Fair	Remove	V-fork, trunk, and top damage, dieback, decay
8	White Oak	34	Fair	Remove	Trunk and top damage, branching, decay, dieback
9	Red Maple	36	Fair	Remove	Root, trunk, and top damage, decay, dieback
10	Beech	34	Fair	Remove	Root, trunk, and top damage, decay, dieback
11	White Oak	33	Good	Remove	Trunk and top damage, dieback
12	White Oak	33	Good	Remove	Trunk and top damage, dieback

Removal of the nine specimen trees requested by the applicant is approved based on the findings below.

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

The property is 106.62 acres and contains approximately 16.49 acres of PMA comprised of streams, wetlands, and associated buffers. This represents approximately 15.46 percent of the overall site area. These existing environmental conditions are peculiar to the property. The applicant is proposing to remove the specimen trees that are located within the upland residential development areas of the subdivision, while preserving the site's PMA to the fullest extent practicable and providing over double the amount of WCT for the R-R Zone. The public benefit conservation subdivision requires a minimum of 40 percent of the gross tract area to be in conservation lot(s) or parcel(s) and up to 60 percent of the gross tract area may be utilized for residential development. Because of the conservation subdivision development approach, with limited area available for residential development and limitations to the number of lots that can be created on-site, the further limiting of developable area by protecting the root zones and specimen trees

that are separated from the regulated areas by residential lots will deprive the applicant of the opportunity to create a functional development.

Specimen Trees 4, 5, 6, and 7 are located upland in the northeast portion of the property and are without connectivity to the regulated areas. These trees are all in fair condition with V-fork forms, trunk and top damage, excessive branching, and showing dieback. In addition, Specimen Trees 6 and 7 show signs of decay. Specimen Trees 8 and 9 are located at the northern residential pods entrance from Tower Road, both trees are in fair condition showing trunk and top damage, with signs of decay and dieback. In addition, Specimen Tree 10 shows root damage. Specimen Trees 10, 11, and 12 are located upland in the southern residential pod and are without connectivity to the regulated areas. Specimen Tree 10 is in poor health with root, trunk, and top damage, showing both decay and dieback. Specimen Trees 11 and 12 are in good health but show trunk and top damage and dieback. To further restrict development of the wooded areas outside of the PMA would cause unwarranted hardship.

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

The environmental public benefit conservation subdivision residential community includes housing options that align with the uses permitted in the R-R Zone, as well as the vision for such zones as described in the Subregion 6 Master Plan. Based on the unique characteristics for the property, enforcement of these rules would deprive the applicant of the right to develop the property in a similar manner to other properties zoned R-R in the area.

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

If other constrained properties encounter trees in similar locations on a site, the same considerations would be provided during the review of the required variance application.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant.

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

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**

All land development activities will require sediment control and SWM measures to be reviewed and approved by the County.

The required findings of Section 25-119(d) have been adequately addressed for the removal of Specimen Trees 4–12.

**Regulated Environmental Features**

This site contains regulated environmental features that are required to be preserved and/or restored to the fullest extent possible under Section 24-130(b)(5) of the Subdivision Regulations. The on-site regulated environmental features include streams, stream buffers, wetlands, wetland buffers, and steep slopes.

Section 24-130(b)(5) states: “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.”

Impacts to the regulated environmental features should be limited to those that are necessary for development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for SWM facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. SWM outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site, in conformance with the County Code.

A letter of justification was received December 18, 2020 for the proposed impacts. A revised letter of justification was submitted on March 8, 2021 that reduced the number of proposed impacts to one, for the WSSC easement that will contain the water and sewer lines for the project.

The current letter of justification and associated exhibit reflects one proposed impact to the regulated environmental features associated with the public benefit conservation subdivision development totaling approximately 149.80 square feet or 0.003 acre. The SOJ states that the

impact is temporary for the construction of three utility lines: a force main, a sanitary sewer line, and a water line. However, due to the 44-foot-wide easement placed over the three utility lines that will be maintained by WSSC, the easement is considered a permanent impact.

**Impact for the 44-foot-wide WSSC Easement and Utility Lines**

The PPS shows a sewer system that utilizes gravity flow from both the northern and southern development pods to a pump station located on the south side of the northern development pod. The sewage will then be pumped via a force main through the southern development pod to a connection in Tower Road. The applicant provided an analysis of two alternative sewer designs; a gravity system connecting each development pod to Tower Road and a pump station at an alternate location to the one shown on the PPS.

The alternative considered for a gravity flow sewer design directly to Tower Road for each development pod is not feasible, due to the shallow invert of the existing sewer system located in Tower Road. The existing invert elevations to the available sewer line in Tower Road are 233.3-foot and 233.6-foot elevations. The gravity flow alternative layout at the minimum slope, in accordance with WSSC standards, would require deeper existing sewer invert connections, estimated at a depth of 200.3 feet for the northern residential pod and 215.7 feet for the southern residential pod.

The alternative considered for a pump station in a different location would require a wetland crossing to accommodate a force main connection through the southern development pod.

The sewer connection shown on the PPS is approved over the alternatives provided. The location of the 44-foot-wide WSSC easement results in minimal impacts to the PMA, proposing 0.003 acre of impact to the wetland buffer. This impact is considered necessary to the orderly development of the subject property. This impact cannot be avoided because it is required by other provisions of the County and state codes. The plan shows the preservation, restoration, and enhancement of the remaining areas of regulated environmental features.

Based on the level of design information available at the present time, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible, based on the limits of disturbance (LOD) shown on the TCP1.

**Erosion and Sediment Control**

The County requires the approval of an erosion and sediment control plan. The TCP2 must reflect the ultimate LOD not only for installation of permanent site infrastructure, but also for the installation of all temporary infrastructure including erosion and sediment control measures. A draft copy of the erosion and sediment control technical plan must be submitted prior to certification of the limited DSP and TCP2 so that the ultimate LOD for the project can be verified.

- 18. Urban Design**—The review of the subject PPS is evaluated for conformance to the Zoning Ordinance, as follows:

The single-family detached dwellings are permitted in the R-R Zone. Specifically, the PPS is for a public benefit conservation subdivision, which is subject to additional regulations as specified in Section 27-445.12, Bulk regulations for Conservation Subdivisions and Public Benefit Conservation Subdivisions, of the Zoning Ordinance. In addition, conformance with the regulations of the Zoning Ordinance is required for the development, including but not limited to the following:

- Section 27- 428, R-R Zone,
- Section 27-441(b), Table of Uses for the R-R Zone,
- Section 27-442, Regulations in the R-R Zone,
- Part 11, Off-Street Parking and Loading, and
- Part 12, Signs, respectively.

The lot sizes meet the required minimum lot size of 6,000 square feet and the bulk regulations including setbacks, frontage, and conservation area related to a public benefit conservation subdivision. A public benefit conservation subdivision is specifically defined in the Zoning Ordinance and there are requirements which must be met in order for a development to qualify as a public benefit conservation subdivision. Conformance to these requirements is discussed in the Public Benefit Conservation Subdivision Definition and Purpose finding of this resolution. Additional requirements applying to all types of conservation subdivisions are discussed in the Environmental and Conservation Subdivision Criteria for Approval findings of this resolution.

#### **Conformance with the Tree Canopy Coverage Ordinance**

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area or disturbance and requires a grading permit. Properties in the R-R Zone are required to provide a minimum of 15 percent of the gross tract area, which equals to approximately 15.99 acres for this site, to be covered by tree canopy. Compliance with this requirement will be evaluated at the time of permit.

#### **Conformance with the Requirements of the Prince George's County Landscape Manual**

The development is subject to the Landscape Manual. Specifically, Section 4.1, Residential Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscape Requirements, apply to this site. Conformance with the applicable landscaping requirements will be determined at the time of permit.

19. **Noise**—A June 25, 2007 Phase I Noise Analysis was prepared by Henning Associates, Inc. for the previous PPS proposed on the property. The applicant resubmitted the analysis with the subject PPS. This analysis accounted for noise measurements from the railroad on the west side of the site. It found that the 65 dBA Ldn noise contour would be 140 feet away from the railway. Since no lots or outdoor activity areas were within the noise contour, no further study or mitigation was recommended at the time of the previous PPS.

Following resubmission of the 2007 noise study, the applicant submitted a March 5, 2021 supplemental memo affirming that the conclusions of the noise study were still valid. The memo included a U.S. Department of Transportation Crossing Inventory form provided by CSX Railway. Based on the information contained in the form, the number of trains that currently pass by the Brandywine Woods site is only one per week. This is down from an average of three per day in 2007. Therefore, the 65 dBA Ldn noise contour is now closer to the railway than the 140-foot distance previously determined. As was the case with the prior PPS, the lots are not within the noise contour, and so no noise mitigation is needed for the lots.

Since the exact position of the new 65 dBA Ldn noise contour was not measured, the plans may continue to show the noise contour at 140 feet away from the railroad, consistent with the 2007 study.

The PPS includes a system of soft surface recreational trails as part of the public benefit conservation subdivision. These trails should be located at least 140 feet away from the railroad in order to ensure no noise mitigation is required for them, as they would be considered outdoor activity areas. This may be demonstrated at the time of the limited DSP required for the trail system and discussed further in the finding below. If the trail system cannot be located at least 140 feet away from the railroad, an additional noise study shall be conducted with the limited DSP, and appropriate noise mitigation measures shall be provided if necessary.

Section 24-121(a)(4) requires a minimum 300-foot lot depth where residential lots are platted adjacent to transit rights-of-way. The plan currently meets this requirement. The plan labels the area next to the railway as a 300-foot buffer; this needs to be revised to clarify it as a lot depth requirement rather than a buffer.

- 20. Public Benefit Conservation Subdivision Definition and Purpose**—In accordance with Section 24-152(c), this PPS has been filed as a public benefit conservation subdivision, which are defined in Section 27-445.12, as follows:

**(184.3) Public Benefit Conservation Subdivision: A conservation subdivision that prioritizes site characteristics which conserve important site features such as open space networks and contiguous woodland habitats adjacent to other existing open spaces tracts. The site design of such subdivisions should encourage connectivity between environmental characteristics of adjacent properties and should provide a continuous open space network between the proposed development layout and the adjacent properties. Intermodal trails which provide a link to adjacent properties as an enhancement of recreational opportunities are encouraged. A Public Benefit Conservation Subdivision shall provide for more tree conservation on site than required and significantly more conservation acreage in parcels more than the 40% gross tract area requirement for a conservation subdivision.**

Section 24-152(c) describes the purpose of a public benefit conservation subdivision, as follows:

- (c) **Purpose of a Public Benefit Conservation Subdivision. The purpose of a Public Benefit Conservation Subdivision is to prioritize site characteristics which conserve important site features such as open space networks and contiguous woodland habitats adjacent to other existing open space tracts. The site design should encourage connectivity between environmental characteristics of adjacent properties and should provide a continuous open space network between the proposed development layout and the adjacent properties. Intermodal trails which provide a link to adjacent properties as an enhancement of recreational opportunities are encouraged.**

The criteria for approval of a public benefit conservation subdivision are identical to that of a “regular” conservation subdivision, except that for a project to qualify as a public benefit conservation subdivision, it must also meet the definition and purpose statements above.

The definition and purpose statements emphasize the importance of connecting the conserved features on the subject property with environmental features on nearby properties. Open space networks and contiguous woodland habitats on the subject property should be conserved. These conserved features should be adjacent to other existing open space tracts. Mere proximity of the subject property’s conserved features and adjacent open space tracts is not enough, however, to meet the purposes of a public benefit conservation subdivision. Rather, the site design also plays an important role: it should encourage connectivity between the environmental characteristics of adjacent properties, such that an open space network is formed between the proposed development and the adjacent properties. A public benefit arises when the on-site open space network forms a greater network with the features on adjacent sites. Intermodal trails are encouraged because they can take advantage of the open space network, further increasing the public benefit.

The open space network on the subject property consists of both the environmental features and historic and scenic features identified on the plan for conservation. The environmental features consist of nontidal wetlands, as well as woodlands of high forest structure in the interior of the site. The historic and scenic features consist of a 40-foot buffer along Tower Road (an historic roadway) which is to be reforested according to the TCP1. The environmental and historic/scenic features form an on-site network through their connection to each other at the Tower Road frontage, on Parcels F and H.

The most significant open space adjacent to the subject property is the established tree mitigation bank located on the east side of Tower Road, Tower Preserve TCP2-218-92-03. This project’s site design features woodland conservation, which is designed to minimize forest fragmentation and reinforce new forest edges. The retention of potential FIDS habitat and green infrastructure corridors is included with the TCP1, through the conservation parcels, which will preserve a connection to the FIDS habitat in the adjacent tree mitigation bank. Based on this design, the on-site open space network forms a greater network with an adjacent site, and a public benefit is present.



The site design also features a system of soft-surface trails through which members of the public can take advantage of the open space network, helping to further increase its public benefit. The conceptual design of this system can be seen in the applicant's Pedestrian Circulation Plan exhibit dated March 2021, included in the project submission. Given that the trail system is currently only a concept, there are several unanswered questions about how it will work at this time. There are no off-site trail connections proposed, so it is unclear how members of the public will enter the site to access the trails. People may drive to the trailheads, but the site design currently features neither on-street parking nor an off-street parking area, only parking in private driveways. Additional concerns include what rules there will be for use of the trails, how those rules will be communicated and enforced, how the trail system will be maintained, and how the trail system will avoid additional environmental impacts beyond those allowed by the Subdivision Regulations and Zoning Ordinance.

To allow for further development and review of the trail system, a limited DSP shall be required for the trail system. The limited DSP shall be evaluated to ensure the trails and trailheads are in appropriate locations accessible to the public, feasible to construct and maintain, and have reasonable restrictions on their use. The limited DSP shall be evaluated to ensure the trail system avoids additional environmental impacts to the fullest extent possible and includes appropriate provisions for public access and use restrictions, which can be included in the conservation subdivision easement document and the HOA covenant. The limited DSP may be evaluated by the Planning Director or her designee.

It is noted that the definition provided in Section 27-445.12 of the County Code adds that a public benefit conservation subdivision shall provide for more tree conservation on-site than required and significantly more conservation acreage in parcels than the 40 percent gross tract area requirement for a conservation subdivision. For this project, 47.78 acres of woodland conservation will be provided, while 34.64 acres are required. The PPS shows that approximately 48 percent of the property will be under the conservation subdivision easement. The project therefore meets the additional requirements of the definition statement for a public benefit conservation subdivision.

The project features an on-site open space network, a greater network created through preservation of FIDS habitat on the property adjacent to additional off-site FIDS habitat, and public trails through which the public benefit of the conservation can be increased. Given the foregoing, the project qualifies as a public benefit conservation subdivision. The project also needs to meet the criteria for approval applying to all Conservation Subdivisions, which are discussed in the previous Environmental finding of this resolution, as well as the finding below.

21. **Conservation Subdivision Criteria for Approval**—The subject site contains regulated environmental features, which are prioritized as part of the conservation subdivision. Expanded areas of conservation next to the regulated environmental features provide enhanced opportunities for preservation that would not otherwise be required with a conventional subdivision.

In the R-R Zone, a minimum of 40 percent of the gross tract area is required for conservation, as part of a conservation subdivision. The plans submitted provide 48 percent of the site area for conservation. Environmental features on the site, including nontidal wetlands and woodlands of high forest structure, are to be conserved. The conservation parcels are to be conveyed to the HOA. The conservation areas adjoin regulated environmental features on an adjacent property (the Tower Preserve tree mitigation bank), which will provide opportunity for contiguous preservation. A conservation subdivision easement has been delineated on the PPS and will be required to be recorded with the final plat, per Section 24-152(o).

Section 24-152(k) sets forth the following criteria for approval of conservation subdivisions, including public benefit conservation subdivisions:

**(k) Criteria for Approval. The Planning Board shall find that the conservation subdivision:**

**(1) Fulfills the purpose and conforms to the regulations and standards for a conservation subdivision.**

The PPS fulfills the purpose of a conservation subdivision by focusing the site design plans around the priority preservation of a number of environmentally sensitive and regulated features, (i.e., woodland conservation, wetland preservation, water quality measures for Tier 2 waters, preserving FIDS habitats, etc.) including features which may not otherwise be preserved. All regulations and standards for a conservation subdivision set forth in Section 24-152 have been satisfied by the plan and with the conditions of approval.

**(2) Achieves the best possible relationship between the development and the conservation of site characteristics as prioritized in the sketch plan and preliminary plan;**

The PPS achieves the best possible relationship between the development and the conservation of site characteristics, with a focus on the existing conditions of the natural setting of the subject property. The approved sketch plan called for the prioritization of the woodland and other environmental features as the first priority for conservation, and recognized the need for the preservation of the existing environmental areas. This has been carried forward onto the PPS through preservation of the site's PMA, woodlands, and FIDS. A conventional subdivision would not normally seek to preserve the site's unique characteristics to the extent this PPS does; the use of a public benefit conservation subdivision as the means to achieve residential development on this site allows for expanded preservation of natural features and consolidation of the development area. The PPS provides a unique setting and the best possible relationship between the development and the conservation areas.

- (3) **Because the use of the Conservation Subdivision technique in the Developed or Developing Tier is optional, the Planning Board shall also find that the proposed plan is clearly superior to that which could be achieved through the use of conventional development standards and clearly meets the purposes of the Conservation Subdivision technique. Lot yield shall be a secondary consideration to achieving the purposes of the Public Benefit Conservation Subdivision in assessing whether a proposed plan is clearly superior;**

As part of the conservation subdivision requirements, the applicant submitted an exhibit showing a reduction of the conservation area to 29.93 acres (compared to the 51.16 acres of conservation on the PPS). Lots are also in some cases designed with their lot lines extending to the perimeter of site's boundaries, rather than the perimeter of the site being maintained as a natural buffer from abutting properties, as is shown with the public benefit conservation subdivision.

The public benefit conservation subdivision creates conservation areas that connect to adjacent regulated environmental features, specifically FIDS habitat in the neighboring Tower Preserve woodland mitigation bank. In addition to this opportunity for a networked preservation area, the public benefit is served by the proposed public trails on-site. These will contribute to the scenic and historic value of the surrounding area. Pursuing a conventional subdivision may allow development to dominate the subject property through expanded site grading and the total removal of the unique features proposed for preservation. The proposed public benefit conservation subdivision is clearly superior to the plan which could be achieved through the use of conventional development standards, and clearly meets the purposes of the conservation subdivision technique.

The criteria for approval of a public benefit conservation subdivision have been met.

#### **Draft Conservation Subdivision Easement Document**

Section 24-152(1)(3) requires that the applicant provide a draft conservation subdivision easement document. The applicant included a draft document in the project submission. To the extent that the required information is available, this document meets the requirements for easement documents listed in Sections 24-152(n) and (o) of the Subdivision Regulations. The draft will have to be edited prior to final plat to account for the final location of the conservation subdivision easement and the final determination made with this PPS of which HOA parcels are considered conservation parcels. In addition, the draft easement document contains no provisions for public access or use restrictions. These must be in place in order to allow public use of the trail system.


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

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 15, 2021, in Upper Marlboro, Maryland.

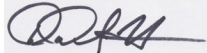
Adopted by the Prince George's County Planning Board this 6th day of May 2021.

Elizabeth M. Hewlett  
Chairman

By   
Jessica Jones  
Planning Board Administrator

EMH:JJ:EDC:nz

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department  
Date: April 22, 2021