



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

Preliminary Plan 4-04029

Application	General Data
Project Name: BUCKNER PROPERTY Location: Northwest quadrant of the dead end of Buena Vista, approximately 500 feet west of its intersection with Galvenston Road. Applicant/Address: IPDS, LLC. 7245 Hanover Parkway, Suite #D Greenbelt, MD 20770	Date Accepted: 02/25/04
	Planning Board Action Limit: 05/04/04
	Plan Acreage: 3.65
	Zone: R-80
	Lots: 4
	Parcel: 0
	Planning Area: 70
	Tier: Developing
	Council District: 03
	Municipality: N/A
200-Scale Base Map: 207NE09	

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-58-2003) 01/23/04
	Sign(s) Posted on Site: 04/14/04

Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Subdivision Plat 4-04029
Buckner Property, Lots 1-4, Block A

OVERVIEW

The site contains approximately 3.63 acres of R-80-zoned land. The applicant is proposing to subdivide the site into four lots. A variation request from Section 24-130 of the Subdivision Regulations for disturbance to the Patuxent River Primary Management Area (PMA) has also been submitted with this application. Access to the site will be from Elm Street, a 50-foot public right-of-way that the applicant is proposing to construct. The Prince George's County Planning Board approved this same subdivision and variation request in 1995 (4-95035), but the approval was allowed to lapse.

SETTING

The site is located on the west side of Elm Street at its intersection with Buena Vista Road. The surrounding properties are zoned R-80 and R-R and are either undeveloped or developed with residential uses.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone	R-80	R-80
Uses	Vacant	Single-Family Residences
Acreage	2.18	2.18
Lots	0	4
Parcels	1	0

2. **Environmental**—A review of the available information indicates that the site is mostly wooded. An unnamed tributary (stream) to Folly Branch is located on the northern portion of the site. In addition, wetlands, 100-year floodplain, and steep slopes have been identified on the site. The soils found to occur, according to the Prince George's County Soil Survey, include two types in the Christiana Silt Loam series (CeB2 and CeC2). The CeB2 soils have two to five percent slopes and the CeC2 soils have five to ten percent slopes, and both are characterized as being moderately erodible. According to available information, Marlboro clay is not found to occur on this property. Information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled "Ecologically Significant Areas in Anne Arundel and Prince George's Counties," December 1997, indicates there are no rare, threatened, or endangered species found to occur in the vicinity of the property. The intersection of two existing major

arterial roads (MD 704 and 450) is in the vicinity of this site, approximately 500 feet to the southeast. There are no scenic or historic roads in the vicinity of the site. The property is located in the Folly Branch watershed of the Patuxent River basin and is in the Developing Tier in the 2002 adopted General Plan.

Environmental Review

1. A Detailed FSD has been submitted and was reviewed. The FSD map identifies three forest stands. No specimen trees are present at the site. Both the FSD map and text need minor revisions in order to meet the requirements of the Woodland Conservation Ordinance.

Required information on the FSD map is not shown, and as such the map does not provide a complete depiction of the existing woodland situation. The missing information includes showing the soil boundaries, the existing tree line, and labeling both the existing woodlands and forest stand boundaries to the nearest 100th of an acre. The FSD map contains a soils table, however, the soils and their boundaries are not shown on the map. Revise the map to locate each soil type present at the site with an appropriate boundary symbol to be added to the legend. Show the existing tree line on all four corners of the site extending off-site 100 feet. Also, label the existing woodlands and the forest stand boundaries to the nearest 100th of an acre. After all of these revisions have been made to the FSD map have the qualified professional who prepared the plans sign and date them.

2. The site is subject to the provisions of the Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet and there are more than 10,000 square feet of woodlands on site. A revised Type I Tree Conservation Plan (TCPI) has been submitted and minor revisions are necessary to meet the requirements of the Woodland Conservation Ordinance. For purposes of clarification, the subject TCPI submittal has been given the same number as the previous TCPI (TCPI/23/95) reviewed in 1995. It is not technically a revision to the last TCPI because the application is different.

The minor revisions that are still needed are as follows: a two-part woodland conservation worksheet has been prepared because a portion of the property is within the street rights-of-way of Chautauqua and Buena Vista Avenues and Elm Street. The revised TCPI contains a gross tract of 3.63 acres, of which 2.18 acres is 100-year floodplain and a net tract area of 1.45 acres. Existing woodland of the net tract area totals 1.45 acres. The TCPI shows the amount of woodland cleared to be 0.61 acre, all of which is outside the floodplain. The total woodland conservation provided on-site is 0.62 acre. This site is unique in that there are 1.47 acres separate from the gross tract that are within the three planned street rights-of-way, of which 0.70 acre is within the 100-year floodplain, for a total net tract area of 0.77 acre. The proposed amount of woodland cleared in the street rights-of-way totals 0.46 acre. Staff notes only a portion of Elm Street provides vehicular access for existing residences along it. The total woodland conservation proposed in the street rights-of-way is 0.31 acre. This is a potential problem because the applicant does not control the street rights-of-ways and as such cannot commit to the provision of woodland conservation in these areas.

The revised TCPI worksheet has a shortage in both the area of the proposed woodland conservation for the gross tract and the three street rights-of-way. Typically, woodland conservation is not counted in the street rights-of-way because these are controlled by the Prince George's County Department of Public Works and Transportation (DPW&T) after mandatory dedication of the road frontage. In the event DPW&T plans to construct these three streets to their ultimate rights-of-way, these areas cannot be used for woodland conservation. Only if written permission is obtained from DPW&T indicating that they will allow the woodland conservation to exist within the rights-of-way can the areas can be counted for woodland conservation. Therefore, the worksheet must be revised accordingly, or written permission from DPW&T must be obtained allowing for the street rights-of-way to be used for woodland conservation requirements for this site. In the event the latter cannot be obtained, then off-site mitigation is required. Woodland clearing necessary for the construction of access to the lots within the rights-of-way is required to be accounted for on this project. The worksheet does not account for this clearing.

The proposed limit of disturbance (LOD) is not clearly shown on the plans and needs to be revised to show realistic clearing limits on all the lots. As currently shown, there is no clearance between the house and LOD on Lot 4; there is less than 10 feet of clearance between the LOD and the house on Lots 2 and 3; and the LOD appears to go through the proposed house on Lot 1. At a minimum, there needs to be 40 feet of cleared area at the rear of each house, and at least 30 feet of cleared area on the sides of each house.

3. There is an area of Patuxent River Primary Management Area (PMA) on the site. The PMA includes a stream, wetlands, 100-year floodplain, and areas of steep slopes on highly erodible soils. The slopes are located adjacent to the floodplain, which makes all the slopes part of the PMA. These areas are critical to the long-term integrity of the stream and the 100-year floodplain. The PMA is required to be preserved to the "fullest extent possible" as stipulated in Section 24-130 of the Subdivision Ordinance.

The plans as submitted do not clearly delineate the PMA, and in one instance an area is labeled as PMA that does not appear to meet the criteria. The PMA on this site includes the 100-year floodplain; the stream and a 50-foot stream buffer; wetlands and a 25-foot wetland buffer; and all associated severe slopes and steep slopes on highly erodible soils. The plans also do not show the location of the 50-foot-wide stream buffer. If the PMA were correctly delineated on the site, almost all of proposed Lot 1 would be shown to be within this regulated area and approximately two-thirds of the other lots would also be shown to be within this regulated area.

4. Impacts to the PMA are proposed for the grading of proposed Lots 1 and 2. The evaluation below considers this area of the plan and evaluates the proposed impacts:

Evaluation of Proposed Impacts to the PMA

A letter of justification dated March 26, 2004, has been submitted. The letter is for one proposed impact on Lot 1 as follows:

"This letter is to serve as justification to the proposed grading impact to the existing 43,714 square feet area with 15% ground slope. This entails grading on Lot 1 with the total impact of about 2,082 square feet. As part of our preservation efforts, we avoided any impact to all the natural features of the site such as the forested wetlands, the 100-year floodplain and its 50-foot buffer and

the swamp of Folly Branch.

“In order to minimize impact to the 15% slope, we reduced the proposed size of the house footprint on Lot 1 from 40 feet by 50 feet to 35 feet by 45 feet. The proposed houses on Lots 2, 3 and 4 will remain as 40 feet by 50 feet. As an alternative, we also proposed to mitigate the impacted area by providing a geotextile fabric to improve and reinforce all disturbed soils.”

This justification does not address the fact that all disturbance not essential to the development of the site as a whole is prohibited within the PMA. “Essential” development includes such features as public utility lines [including sewer and stormwater outfalls], streets, and so forth, which are mandated for public health, and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare. This plan must be redesigned to preserve the PMA to the fullest extent possible.

The TCPI and preliminary plan do not preserve the PMA to the “fullest extent possible” because the proposed grading of the slopes on Lot 1 is “nonessential” to the overall development of the site. Staff does not support the grading of slopes exclusively for the development of residential lots when slopes are determined to be within the PMA, and especially when the slopes are in close proximity to the 100-year floodplain, such as those on the subject property. Both the TCPI and the preliminary plan should be redesigned to a lot layout that does not require grading of the slopes for the creation of and construction on a residential building lot.

5. Wetlands information has been submitted as required. A wetlands study was prepared and the location of these features has been determined at the site. The wetlands are outside of the proposed development activity for the construction of single-family detached dwellings.
6. The stormwater management concept approval letter and concept plan have been submitted. Concept plan approval from the Department of Environmental Resources was issued on March 23, 2004. Infiltration is the primary method of stormwater management. A fee payment of \$2,000 in lieu of providing on-site attenuation/quality control measures is part of the concept plan approval. The conditions of approval include the provision of grass swales along the right-of-way of Elm Street for water quality and drywells for individual water quality and ground recharge on each lot. These methods will not impact the proposed woodland conservation areas shown on the TCPI.
7. The site contains 100-year floodplain totaling 2.40 acres, not including that portion identified in the street rights-of-way. A 100-year floodplain delineation approved by the county’s Department of Environmental Resources (DER) has been submitted. The plans reflect the approved location of the 100-year floodplain.

Water and Sewer Categories

The property is in water category W-3 and sewer category S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003.

3. **Community Planning**—The property is in Planning Area 70/Annapolis Road Community. The 2002 General Plan places the property in the Developing Tier. The vision for the Developing

Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. The 1993 *Approved Master Plan and Sectional Map Amendment for Glenn Dale–Seabrook–Lanham and Vicinity (Planning Area 70)* recommends suburban density for single-family detached dwellings. The master plan also shows a future stream valley park associated with Folly Branch extending through the property. This application conforms to the master plan recommendation.

4. **Parks and Recreation**—The applicant proposes dedication of Parcel A, 2.4 acres of mostly wetland and floodplain to M-NCPPC. DPR staff, after assessing the applicant’s proposal, has recommended that Parcel A be eliminated and the applicant instead provide a fee-in-lieu to meet mandatory dedication requirements.
5. **Trails**—There are no master plan trails issues regarding the subject application. However, if road frontage improvements are required, the provision of a standard sidewalk is recommended along the subject site’s frontage of Elm Street, per the concurrence of DPW&T. This is consistent with the developments immediately to the west of the subject property where sidewalks are provided along both sides of internal roads.
6. **Transportation**—The applicant has not prepared a traffic impact study. It was not required by the transportation staff based on the proposed use of the site. Based on the three additional single-family lots that would be created, the proposed development would generate 2 AM and 3 PM peak-hour vehicle trips as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals” (revised September 2002).

The site is within the Developing Tier, as defined in the General Plan for Prince George’s County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

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

Staff Comments

The traffic generated by the proposed preliminary plan would impact the intersection of MD 704 and MD 450.

Staff has reviewed a recent traffic study at the critical intersection of MD 704 and MD 450. Even under total traffic, it was determined that the intersection would operate at LOS A, with a CLV of 847 in the AM peak hour and at a LOS D with a CLV of 1,379 in the PM peak hour. Due to the limited trip generation of the site, the Prince Georges’ County Planning Board could deem the site’s impact at this location to be de minimus, with minimal impact on the intersection’s level of service standard. Given these facts, staff would, therefore, recommend that the Planning Board find

that 2 AM and 3PM peak-hour trips will have a de minimus impact at the intersection of MD 704 and MD 450.

All four lots would have access via Elm Street, which is platted but unbuilt. The applicant will be required to construct Elm Street along the frontage as required by DPW&T and construct a public street connection to the nearest available existing street. Coordination with DPW&T is essential.

Transportation Conclusion

Based on the preceding findings, the Transportation Planning Section finds that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

- 7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
Dwelling Units	4 sfd	4 sfd	4 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.96	0.24	0.48
Actual Enrollment	5,623	5,131	10,098
Completion Enrollment	327.84	217.62	398.97
Cumulative Enrollment	147.84	89.52	179.04
Total Enrollment	6,099.64	5,438.38	10,676.49
State Rated Capacity	5,894	4,688	8,770
Percent Capacity	103.52	116.01	121.74

Source: Prince George's County Planning Department, M-NCPPC, December 2003

These figures are correct on the day this memo was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution of approval will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts on existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

The school surcharge may be used for the construction of additional school facilities, which are expected to accommodate the new students that will be generated by this development proposal. This project meets the adequate public facilities policies of Section 24-122.02, CB-30-2003, CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities.
 - a. The existing fire engine service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard has a service travel time of 5.25 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Glenn Dale Fire Station, Company 18, has a service travel time of 5.25 minutes, which is within the 6.25-minute travel time guideline.
 - c. The existing paramedic service at Glenn Dale Fire Station, Company 18, has a service travel time of 5.25 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic service.

These findings are in conformance with the standards and guidelines contained in the 1990 *Approved Public Safety Master Plan* and the “Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.”

9. **Police Facilities**—The proposed development is within the service area for Police District II-Bowie. The Planning Board’s current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. Therefore, in accordance with Section 24-122.01(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed development.
10. **Health Department**—The Health Department reviewed the application and offered the following comment:

“A significant amount of domestic trash and other debris (cans, bottles, crushed concrete, three tires) were found near the stream located at the northwest corner of the property off of Buena Vista Avenue and should be removed and properly stored or discarded.”
11. **Stormwater Management**—The applicant received stormwater concept approval from the Prince George’s County Department Of Environmental Resources on March 23, 2004.
12. **Cemeteries**—There are no known cemeteries on the subject property.
13. **Public Utility Easement**—The preliminary plan shows a ten-foot-wide public utility easement adjacent to both Beacon Light Road and 65th Avenue.
14. **Prior Approvals**—The subject property was included in TCPI/08/91, which is being revised as part of this application.

15. **Variation Request**—Section 24-130 of the Subdivision Regulations requires that proposed subdivisions are required to minimize effects of development on wetlands and other environmentally sensitive areas and to provide a minimum buffer of 25 feet. The applicant is requesting a variation to this section per Section 24-113. The Natural Resources Division staff has reviewed this request. The Planning Board approved a similar variation request when this site was considered in 1995. In that case, the applicant revised the preliminary plan to reduce the number of lots from five to four, reducing impacts to the wetland buffer and steep slopes significantly. Staff cannot support the variation request this time, however. Strict conformance to the Subdivision Regulations for wetlands in this application would not result in a particular hardship to the applicant. The impact is necessary in order to locate a fourth lot on this environmentally constrained site, not to provide essential infrastructure to the entire development. The slopes proposed to be graded are within the PMA, close to the 100-year floodplain. Such discretionary impacts not mandated to provide for public health and safety should be avoided whenever possible. In addition, the lot so impacted is shown to have an unrealistic building footprint, noticeably smaller than the footprints on the other three lots.

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

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

Discussion: The granting of the variation will be detrimental to the public safety, health or welfare or injurious to other property due to the potential negative impact to the long-term integrity of the stream and associated 100-year floodplain.

- (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;**

Discussion: The conditions on which the variation is based are not unique to the property for which the variation is sought and are applicable generally to other constrained properties in the area and properties in general.

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

Discussion: The variation does not constitute a violation of any other applicable law, ordinance or regulation.

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

Discussion: The strict letter of the regulations the applicant seeks to vary would more than likely result in the loss of one lot. While this is a significant loss in a four-lot subdivision, it does not constitute a particular hardship. The applicant will still potentially be able to create three lots. Considering the environmental constraints found on this property, three lots would provide a reasonable development yield without impacting the long-term integrity of the stream, steep slopes and their associated buffers.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to the issuance of grading permits, the applicant shall submit evidence from the Health Department that the tires found on the property have been hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility. All other trash must be removed and properly discarded.
2. Development of the property shall be in conformance with the approved stormwater management concept plan #8010790-1995-0, or any approved revisions thereto.
3. Prior to signature approval of the preliminary plan, the FSD map and text shall be revised as follows:
 - a. Locate on the map each soil type present at the site with an appropriate boundary symbol to be added to the legend.
 - b. Show the existing tree line on all four corners of the site extending 100 feet off of the site.
 - c. Label the existing woodlands and forest stand boundaries to the nearest 100th of an acre.
 - d. After all of these revisions have been made to the FSD map and text, have the qualified professional who prepared the plans sign and date them.
4. Prior to signature approval of the preliminary plan, revise the TCPI as follows:
 - a. The worksheet shall be revised so that no shortage is shown in the site's woodland conservation requirements for both the gross tract and the street rights-of-way. If use of the street rights-of-way is pursued for woodland conservation, obtain written permission from the DPW&T to allow for the street rights-of-way to be used for woodland conservation requirements for this site. In the event the latter cannot be obtained, then off-site mitigation shall be provided.
 - b. Revise the plans to show a realistic limit of disturbance for all lots and provide 40 feet of cleared area from the rear of the house to the limit of disturbance and 20 feet on all sides.
 - c. Identify the limit of disturbance symbol in the legend.
 - d. Revise the worksheet to account for all necessary off-site clearing.

- e. After all of these revisions have been made to the plan, have the qualified professional who prepared it sign and date it.
5. Development of this subdivision shall be in conformance with an approved Type I Tree Conservation Plan (TCPI/23/95). The following note shall be placed on the Final Plat of Subdivision:
 6. “Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/23/95), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Preservation Policy.”
 6. Prior to signature approval of the preliminary plan and TCPI, the plans shall be revised to show the correct delineation of the Patuxent River Primary Management Area and all its associated features.
 7. Prior to signature approval of the preliminary plan, revise the TCPI and preliminary plan to a lot layout that preserves the PMA to the fullest extent possible.
 8. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the Patuxent River Primary Management Area, except for areas of approved impacts, and shall be reviewed by the Environmental Planning Section prior to certificate approval. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted.”
 9. A Type II Tree Conservation Plan shall be approved prior to the approval of permits.

STAFF RECOMMENDS APPROVAL OF THE TYPE I TREE CONSERVATION PLAN (TCPI/23/95).

STAFF DOES NOT SUPPORT THE VARIATION REQUEST TO SECTION 24-130 OF THE SUBDIVISION REGULATIONS.