

R E S O L U T I O N

WHEREAS, Donald Carroll is the owner of a 5.08-acre parcel of land known as Parcel 55, located on Tax Map 117 in Grid B-4, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on July 25, 2008, Donald Carroll filed an application for approval of a Preliminary Plan of Subdivision for 6 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-08028 for Donald Carroll Conservation Subdivision was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on January 15, 2009, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on January 15, 2009, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/025/08), and further APPROVED Preliminary Plan of Subdivision 4-08028, Donald Carroll Conservation Subdivision, including a Variation from Section 24-130 for Lots 1-6 with the following conditions:

1. In accordance with Division 9, part 3 of the Zoning Ordinance, the Planning Board shall approve a detailed site plan. The detailed site plan shall include a review of the following:
 - a. The site's conformance to Sections 4.1 (Residential Requirements) and 4.6 (Buffering Residential Development from Streets) of the Landscape Manual.
 - b. The woodland conservation on-site, the connectivity of the tree conservation area to the conservation lot, the relationship of the proposed homes to the surrounding community.
2. At the time of final plat approval, the applicant shall dedicate 40 feet of right-of-way from the master plan centerline of Dangerfield Road.
3. The development is subject to approved Stormwater Management Concept Plan CSD 49125-2006-00 and any subsequent revisions.

4. Prior to signature approval, the AICUZ noise contours shall be identified on the preliminary plan.
5. Prior to signature approval, the location of the septic system shall be located on the preliminary plan.
6. The abandoned septic system serving the existing house must be pumped out by a licensed scavenger and either removed or backfilled in place as part of the grading permit. The springhouse/cistern must be razed and any pump and associated piping removed before the release of the grading permit.
7. Before the release of the grading permit, the privy located on Lot 1 between the house and the wetland must be removed. To abandon the privy, the contents should be removed, if possible, by a licensed scavenger or backfilled with lime.
8. Prior to the approval of building permits, certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.
9. The following note shall be placed on the final plat:

“Properties within this subdivision have been identified as possibly having noise levels that exceed the state noise standards for residential uses (65 dBA Ldn) due to military aircraft over flights. This level of noise is above the Maryland designated acceptable noise level for residential uses.”
10. The following note shall be placed on the final plat:

“Applications for building permits shall contain a certification, to be submitted to M-NCPPC, prepared by a professional engineer with competency in acoustical analysis using the certification template. The certification shall state that the interior noise levels have been reduced through the proposed building materials to 45 dBA Ldn or less.”
11. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the regulated environmental features and their buffers except for areas of approved impacts, and be reviewed by the Environmental Planning Section prior to certification. 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.”

12. The following note shall be placed on the final plat:

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

13. Prior to signature approval of the preliminary plan, the TCPI shall be revised to:

- a. provide cleared 40-foot-deep rear yards for outdoor activity areas and 20-foot-wide cleared side yards for all of the proposed lots.
- b. remove designated woodland conservation areas from any lot except the conservation lot.
- c. correct Site Note 13, so that it properly indicates that wetlands exist on-site, in accordance with the Environmental Finding of this approval.
- d. ensure that all designated woodland conservation areas are at least 35 feet wide and contain at least 2,500 square feet of woodland.
- e. provide all required woodland conservation on-site.
- f. revise the worksheet as needed.
- g. have the revised plan signed and dated by the qualified professional who prepared the plan.

14. Prior to approval of the final plat of subdivision the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication for Lots 2–6.

15. Prior to signature approval the applicant’s engineer shall add the following to the preliminary plan:

- a. Label all land to be conveyed to the adjacent property owners as Outlots A, B, and C and note the square footage for each outlot created.
- b. Label the easement for the private road and cite the use of Subdivision Regulations Section 24-128(b)(1) in the notes.

16. The following note shall be placed on the final plat of subdivision:

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

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located on the northwest side of Dangerfield Road, at the intersection of Dangerfield Road and Atom Road in Clinton.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	Woodlands and developed with 1 existing residential dwelling	Residential and Conservation Lots
Acreage	5.08	5.08
Lots	0	6
Parcels	1	0
Mitigation	N/A	No

4. **Conservation Subdivision**—The conservation subdivision technique is required for land in the Rural Tier, save for limited exemptions, and is an optional subdivision design approach for land in the Developing Tier. It is the only alternative method of development in the Developing Tier, where traditionally conventional designs prevail. The subject property is located in the Developing Tier as defined by the General Plan and is zoned R-R. Therefore, a conservation subdivision in this instance is optional.

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

In the R-E and R-R Zones a minimum forty percent (40%) of the gross tract area

shall be designated as a conservation lot or parcel. Up to sixty percent (60%) of the gross tract area may be utilized for residential development areas.
(Section 24-152(d)(3))

Compliance with these percentage requirements is discussed below in this Finding.

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

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

The Planning Board shall find that the conservation subdivision:

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

Sketch Plan

The applicant filed Sketch Plan S-06006 on November 27, 2006. Staff conducted a site visit on June 28, 2007. The sketch plan was certified by the Planning Director on June 10, 2008. Staff did not agree with the applicant that the site was appropriate for a conservation subdivision. However, the sketch plan did illustrate limited connectivity to environmental characteristics on adjoining property and does provide opportunities for preservation that may not be obtained with a conventional subdivision. It should be noted that staff did meet with the applicant during the

review of the sketch plan and advised that while the sketch plan would be certified, staff did not believe that the subject property was appropriate for a conservation sketch plan.

The justification statement submitted with the sketch plan identified priority areas that provide for connectivity of adjacent sensitive areas, maintain woodlands and wetlands, and provide for viewshed benefits along Dangerfield Road. The sketch plan layout illustrates that all of the conservation could occur on a single conservation lot and residential development would occur north of the proposed conservation lot.

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

Preliminary Plan

The preliminary plan illustrates a six-lot subdivision with five of the proposed lots accessed by a 22-foot private easement ending in a cul-de-sac. Proposed Lots 2–6 are accessed via the private road, which is permitted when utilizing the conservation subdivision as a method of development. Lot 1 is a conservation lot providing contiguous woodlands and wetlands that connect woodlands on adjoining properties in the south. Access to Lot 1 is via Dangerfield Road.

With a gross tract area of 5.08 acres, a minimum of 2.032 acres of conservation area is required to be placed in a conservation parcel or lot. The submission shows a 2.91-acre area as the conservation lot, which contains contiguous woodlands and wetlands. This conservation lot is larger than the forty-percent minimum requirement per Section 24-152, and thus in turn, the residential component falls below the sixty-percent maximum of that same provision.

The preliminary and tree conservation plans show existing woodland, sensitive natural features (wetlands), and contiguous woodland habitats as the site characteristics being preserved through the use of the conservation subdivision technique. There are no scenic, agricultural, or historic amenities identified. The preliminary plan provides protection of the viewshed along Dangerfield Road by orienting all lot frontages along the proposed private road and providing a 40-foot buffer along Dangerfield Road. The site is subject to Sections 4.1 (Residential Requirements) and 4.6 (Buffering Residential Development from Streets) of the *Prince George's County Landscape Manual*. The site's conformance with the Landscape Manual will be reviewed at the time of detailed site plan.

It should be noted that preservation of environmentally sensitive areas and woodland are required of all preliminary plans of subdivision pursuant to Sections 24-130 and 24-132 of the Subdivision Regulations, respectively. The applicant does show a conservation area on the site; however, the site's ability to provide connectivity to environmental characteristics on adjoining property is limited.

The natural resources inventory (NRI) shows all existing environmental features and landscape

features. The Type I tree conservation plan (TCPI) is consistent with the certified sketch plan because it shows the proposed location for dwellings in the northern portion of the property, which was identified as the area least suitable for conservation. There is one impact proposed to the wetlands that is discussed in greater detail in the Finding No. 6 (Environmental) below.

The Subdivision Regulations only allow the conventional and conservation subdivision methods of land development for the subject property. The use of the conservation subdivision development method for this site does not yield any greater number of lots than would be developed using a conventional development method. Utilizing the conservation subdivision method of development allows for all of the sensitive environmental features, such as the wetlands, to remain on a single lot. This method also requires that all woodland preservation occur on-site, which allows the existing house to maintain its environmental setting, and preserves the connection to adjacent woodlands and the viewshed along Dangerfield Road.

The proposed development is similar in nature to a cluster design, which was eliminated as a development method from the Subdivision Regulations. In the Community Planning Finding No. 5, the Planning Board supports the use of alternative methods of land development for this site because it is under the flight path for aircraft at Andrews Air Force Base. While there are no regulated areas in the area, the proposed development does provide some connectivity via the creation of Lot 1 as a conservation lot.

At the Planning Board Hearing held January 15, 2009, the Planning Board cited that the conservation subdivision design was superior to any conventional plan. The proposed conservation subdivision plan does meet the criteria of 24-152(k). The applicant meets the statutory requirements for the desired layout of the property for six lots.

The Planning Board did express concerns regarding how the conservation subdivision plan would be executed regarding the tree conservation. The Planning Board members felt that there is a need for a detailed site plan to ensure that trees that are critical to the area are maintained. The detailed site plan shall also show the relationship of the proposed six lots to both the existing homes on abutting properties and to the surrounding community, in conformance with Condition No. 1 of this approval. The detailed site plan shall also demonstrate the connectivity of the tree conservation area in preserving the natural animal habitat for animals, also as provided for in Condition No. 1 above.

5. **Community Planning**—This application, which calls for a combined total of six residential and conservation lots on about five acres, is located in the Developing Tier and is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable. This application conforms to the recommendations of the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B*, which classified this property in the R-R Zone, for low-suburban residential land use at up to 2.6 dwelling units per acre (see Finding No. 3 above). The subject property is affected by air

traffic from Andrews Air Force Base (AAFB), particularly with respect to noise, and is in the area encompassed by Air Installation Compatible Use Zone (AICUZ) studies. Acoustical construction techniques for reduction of interior noise levels and buyer notification of location within the AAFB airport environment on subdivision plats and deeds of sale shall be noted on the final plat of subdivision, in accordance with Conditions 9 and 10 of this approval.

PLANNING ISSUES

The site is located under the flight path for aircraft at AAFB, approximately two and one-half miles from the south end of the runway, within the area encompassed by Air Installation Compatible Use Zone (AICUZ) studies. The 1989 AICUZ Study referenced in the master plan text has been updated to reflect changing operations at AAFB. The current AICUZ Study is dated 2007 and identifies the subject property as in Accident Potential Zone II and between the boundary of the 70–75 dBA Ldn noise contours (higher than in 1989). Noise levels in excess of 65 dBA Ldn are identified as unsuitable for residential land use without some type of noise mitigation measures.

The 1993 Subregion V master plan recommendations pertaining to residential development in airport environments are contained in the Living Areas chapter (pp. 51–52) and include recommendations that “subdivision plats and deeds of sale for any residential property located in areas around airports include language informing any buyer about areas identified as having increased accident potential or areas that exceed noise level of 65 Ldn due to aircraft operations. New homes in areas around airports that are subject to higher than desirable noise levels for residential areas (generally over 65 Ldn) should be developed at as low a density as is practical. Alternative development techniques should be utilized to move homes away from noise impact areas; and units should be acoustically buffered to reduce interior noise to acceptable standards.”

Guidelines for development in areas impacted by high noise levels, as indicated by the AICUZ studies, are also contained in the Environmental Envelope chapter of the master plan on page 140, which recommends that “Developers should be encouraged to include careful site planning and construction techniques which are designed to reduce the adverse impact of point and non-point source noise that exceeds the State’s current maximum allowable levels for receiving land users.”

6. **Environmental**—There are nontidal wetlands, but no streams or 100-year floodplain on the property. According to the *Prince George’s County Soil Survey*, the principal soils on the site are in the Bibb, Beltsville, and Sassafra series. Marlboro clay does not occur on this property. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on this property or on adjacent properties. There are no designated scenic or historic roads adjacent to the subject property. This property is located in the Piscataway Creek watershed of the Potomac River basin. Based on the most recent Air Installation Compatible Use Zone Study released to the public in 2007 by the Andrews Air Force Base, aircraft-generated noise in the vicinity is significant. There are no nearby sources of traffic-generated noise and the proposed development is not predicted to be a noise generator. The site is located in the Developing Tier as reflected in the General Plan. The *Approved Countywide Green Infrastructure Plan* indicates that none of the

property is within or near the designated network.

Master Plan Conformance

In the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V*, the Environmental Envelope section contains guidelines for future development. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

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

None of the property is identified in the Countywide Green Infrastructure Plan or the master plan as being part of any environmental network; however, the site contains an area of nontidal wetlands.

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

Development of this site utilizing a conservation subdivision approach is similar to former cluster subdivision provisions.

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

The preliminary plan does not propose land dedication for recreational facilities.

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

Section 24-130 of the Subdivision Regulations and the Woodland Conservation and Tree Preservation Ordinance will focus development in an environmentally sound manner. The areas proposed for conservation would be preserved in the development of this property using a conventional subdivision.

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

The conservation subdivision approach addresses the preservation of natural assets. The preliminary plan submitted proposes placing lots on the entirety of the developable area

and results in the same areas of preservation as would occur on a conventional subdivision.

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

This guideline is a standard practice for all tree conservation plans. As noted above, the preservation areas are the same as those that would occur with a conventional subdivision.

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

This guideline is a standard practice for all tree conservation plans. Because the existing woodlands are currently a forest fragment, preservation of a large contiguous tract of woodland is not possible.

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

Section 24-130 of the Subdivision Regulations ensures that only necessary impacts to sensitive environmental features are permitted. This property can be reasonably developed as a conventional subdivision without impacting any sensitive environmental features.

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

This conservation subdivision proposes the creation of a conservation lot that will be owned and maintained by the future homeowner.

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

The Subregion V master plan does not identify any area of conditional reserve on the subject property.

In the Perceptual Liability Areas, land uses such as schools, residences, nursing

homes, and libraries that are sensitive to noise intrusion, air pollution and other characteristics of excessive vehicular traffic should be protected by suitable construction techniques and by the enforcement of legally mandated standards.

Based on the most recent Air Installation Compatible Use Zone Study released to the public in 2007 by the Andrews Air Force Base, aircraft-generated noise in the vicinity is significant. The study indicates that the noise threshold is between 65 and 70 dBA Ldn in the western portion of the site and between 70 and 75 dBA Ldn in the eastern portion of the site. This issue is discussed in more detail in the Environmental Review section below along with appropriate mitigation measures.

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

The property is not impacted by traffic-generated noise. Based on the most recent Air Installation Compatible Use Zone Study released to the public in 2007 by the Andrews Air Force Base, aircraft-generated noise in the vicinity is significant. The study indicates that the noise threshold is between 65 and 70 dBA Ldn in the western portion of the site and between 70 and 75 dBA Ldn in the eastern portion of the site. This issue is discussed in more detail in the Environmental Review section below along with appropriate mitigation measures.

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

No farming is proposed with this conservation subdivision.

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

Information available at PGATLAS.com provides generalized information regarding sensitive environmental features of the region and the natural resources inventory (NRI) provides detailed information regarding the subject property.

Conformance with the Countywide Green Infrastructure Plan

The Countywide Green Infrastructure Plan indicates that none of the property is within or near the designated network.

The preliminary plan was reviewed to determine if the plan submitted fulfills the intents listed in

Section 24-152(f)(2), as revised by CB-33-2008. The specific language of the ordinance is shown in **bold type** and Environmental Planning Section comments are provided in regular type.

- (2) **The intent of the sketch plan is to clearly document the design process, and to prioritize the characteristics of the site to be preserved in a conservation parcel or lot. Priorities can be a combination of site characteristics and may include areas of the site not otherwise regulated by this Subtitle.**
- (a) **The sketch plan shall document the existing features of the site. The characteristics of the site are generally categorized as follows:**
- (i) **Scenic**
 - (ii) **Agricultural**
 - (iii) **Environmental, and**
 - (iv) **Historic**

Except for a small wetland, the site has no special scenic qualities, agricultural uses, historic, or special environmental features.

- (b) **The sketch plan shall include:**
- (i) **Existing grades at two-foot contours, and a non-disturbance line;**
 - (ii) **Information on surrounding properties to evaluate the opportunities for connectivity between characteristics of abutting properties,**
 - (iii) **Location and/or documentation of woodlands, farmland, farm structures, historic structures, streams, wetlands, scenic vistas, rock formations, hedgerows, pastures, cultural resources, unique views from streets and adjoining properties, and any other information pertaining to the character of a site. The sketch plan shall incorporate information from a signed natural resources inventory (NRI).**

The preliminary plan shows existing grades based on two-foot contours, conceptual grading, and a proposed limit of disturbance. The preliminary plan includes the location of woodlands, open fields, and environmental features, incorporating information from the signed Natural Resources Inventory, NRI/152/05. The NRI includes documentation of woodlands, farmland, streams, wetlands, hedgerows, and pastures. The preliminary plan as submitted does not include documentation of the farm structures, historic structures, scenic vistas, cultural resources, or unique views from streets and adjoining properties.

- (c) **The sketch plan shall identify the areas proposed for conservation lots and parcels including conceptual house site and septic recovery area on conservation lots.**

The TCPI shows the area proposed for a conservation lot. No conservation parcels are proposed.

- (d) **The sketch plan shall establish a building and structures envelope on each conservation lot.**

One conservation lot with an existing single-family structure is proposed.

- (e) **The sketch plan shall propose locations for dwellings on that portion of the site determined to be least suitable for conservation.**

The TCPI plan shows the proposed location for dwellings on the open areas of the site and outside of the delineated expanded stream buffers. These are the areas least suitable for conservation. The preliminary plan does not result in a better design than a conventional subdivision because the same areas being preserved would be preserved otherwise.

- (f) **The sketch plan shall locate areas of the site that have appropriate soils for septic recovery fields (community, shared and/or individual systems) if proposed and shall show areas for stormwater management facilities, if any, and the type of facility proposed.**

Individual septic recovery systems are not proposed. An approved Stormwater Management Concept Plan, CSD 49125-2006-00, was submitted. The CSD illustrates the use of low-impact development techniques encouraged in conservation subdivisions.

- (g) **The sketch plan shall show conceptual locations for proposed roads, lot lines and setbacks.**

The preliminary plan and TCPI show all proposed roads, lot lines, and setbacks.

- (h) **The sketch plan should designate existing environmental and landscape features such as groups of trees, specimen trees, hedgerows, and woodland areas.**

The TCPI shows all existing environmental and landscape features.

The property does not have sufficient special characteristics to utilize the

optional conservation subdivision design. The Countywide Green Infrastructure Plan indicates that none of the property is in or near any designated area of concern. A conventional subdivision would be required to preserve the wetlands and wetland buffers in the southern portion of the property. Any woodland conservation would result in a woodland fragment that does not serve to create contiguous woodland or a woodland corridor. A conventional subdivision would be more in keeping with the character of the general area.

Environmental Review

A signed Natural Resources Inventory (NRI/152/05) was submitted with the sketch plan. The preliminary plan and TCPI show the environmental features in conformance with the NRI. The forest stand delineation describes one forest stand dominated by red oak, white oak, yellow poplar, and American beech with an average diameter at breast height of 12.4 inches. The understory contains American holly, high bush blueberry, and tree saplings. No invasive or noxious plant species were noted. One specimen tree was noted. The wetlands in the southern portion of the site are spring-fed as noted by the presence of a spring house. At the time of final plat, a conservation easement shall be described by bearings and distances, as set forth in Condition No. 11 of this approval. The conservation easement shall contain all of the regulated environmental features and their buffers except for areas of approved impacts, and be reviewed by the Environmental Planning Section prior to certification. A note shall be placed on the plat describing the conservation easement, pursuant to Condition No. 11.

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

Impacts to sensitive environmental features require variations to the Subdivision Regulations. One variation request, dated December 10, 2008, was submitted. The impact is for improvements to Dangerfield Road required by the Department of Public Works and Transportation. Because the existing road is within the wetland buffer, avoidance is not possible.

Section 24-113 of the Subdivision Regulations contains four required findings (**text in bold**) to be made before a variation can be granted:

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an**

alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

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

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

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

The existing public street is partially within a wetland buffer. Any road improvements will require an impact.

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

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

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

Without the required public street improvements, the property could not be properly developed in accordance with the R-R zoning.

The Planning Board supports the variation request for the reasons stated above. The Planning Board further notes that any development of the site using the design standards of a conventional subdivision will require an identical impact.

As required by Condition No. 12 of this approval, a note shall be placed on the final plat stating that prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

This property is subject to the provisions of the Prince George's County 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 existing woodland on-site. A Type I tree conservation plan is required. The Type I Tree Conservation Plan, TCPI/025/08, has been reviewed. The woodland conservation threshold is 1.03 acres. Based upon the proposed clearing, the total woodland conservation requirement has been correctly calculated as 1.58 acres. The worksheet proposes to meet the requirement by providing 1.50 acres of on-site preservation and 0.11 acre of on-site planting for a total of 1.61 acres; however, the plan shows 1.78 acres of on-site preservation and 0.11 acre of on-site planting.

The discrepancy in the acreages of on-site preservation can be attributed to the proposal to provide approximately 0.28 acre of designated woodland conservation on Lots 2 through 6. As a rule, woodland conservation on standard lots in the R-R Zone is discouraged because it places an encumbrance on lots that are already relatively small. Because these are conservation subdivision lots, the magnitude of encumbrance is greatly increased. Additionally, the *Technical Manual for Woodland Conservation with Development in Prince George's County* requires designated woodland conservation areas to have a width of at least 35 feet. Most of the proposed woodland conservation area on Lots 3 through 6 does not meet this standard. The conservation subdivision regulations indicate that the woodland conservation required for the site may be provided at an off-site location, only if it is necessary to preserve the rural and agricultural landscape. Because this site is currently mostly wooded, with no agricultural landscapes, all woodland conservation requirements should be met on-site.

The Countywide Green Infrastructure Plan indicates that none of the property is within or near the designated network. A conventional subdivision would be required to preserve the wetlands and wetland buffers in the southern portion of the property. Any woodland conservation would result in a woodland fragment that does not serve to create contiguous woodland or a woodland corridor. A conventional subdivision would be more in keeping with the character of the general area.

There were errors in the application as originally submitted that have now been addressed by Condition No. 13 of this approval. The plan originally failed to provide cleared 40-foot-deep rear yards for outdoor activity areas and 20-foot-wide cleared side yards for all of the proposed lots. Site Note 13 incorrectly stated that there are no wetlands on-site, a deficiency that is being remedied by Condition No. 13 (c) of this approval. The TCPI did not meet the specific requirements of the Woodland Conservation Technical Manual or the policies established in the Woodland Conservation Ordinance.

Based on the most recent Air Installation Compatible Use Zone Study released to the public in 2007 by the Andrews Air Force Base, aircraft-generated noise in the vicinity is significant. The study indicates that the noise threshold is between 65 and 70 dBA Ldn in the western portion of the site and between 70 and 75 dBA Ldn in the eastern portion of the site. The noise levels present are above the State acceptable noise level of 65 dBA Ldn for residential land uses. It will not be possible to mitigate aircraft noise in the outdoor activity areas associated with each residence; however, proper construction materials must be used to ensure that the noise inside of the residential structures does not exceed 45 dBA Ldn, in accordance with Condition 8 and 10 of this approval.

According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Bibb, Beltsville, and Sassafras series. Bibb soils are associated with wetlands. Beltsville soils are highly erodible and are in the C-hydric group. Sassafras soils pose no special problems for development. This information is provided for the applicant's benefit. Prince George's County may require a soils report in conformance with CB-94-2004 during the permit review process.

Water and Sewerage

In accordance with Subdivision Regulations Section 24-122.01(b)(1), the location of the property within the appropriate service area of the 2001 *Water and Sewer Plan* is deemed sufficient. The subject property is within water and sewer Category 3, Community System. Evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval is appropriate and consistent with Subdivision Regulations Section 24-122.01(b)(1).

7. **Parks**—In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations, mandatory dedication is to be met through land dedication and fee-in-lieu for Lots 2 through 6. Lot 1 is exempt because there is an existing dwelling to remain on the lot.
8. **Trails**—The site is located near the Fox Run Community Park. There are no master-planned trails issues identified in the adopted and approved Subregion V master plan that impact the proposal. Dangerfield Road is planned for closed section engineering and the applicant will be required to fund or construct sidewalks along the road. Sidewalks are recommended along the frontage of Dangerfield Road. There are no master-planned off-road trails or sidepaths or on-road or bike lanes recommended for this proposal.
9. **Transportation**—The application is a preliminary plan of subdivision for a residential development consisting of six single-family lots. One lot would be created to contain an existing residence, so the proposed net development of five residences would generate 4 AM and 5 PM peak-hour vehicle trips as determined using the "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

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.

The traffic generated by the proposed preliminary plan would impact the intersection of MD 5 and Surratts Road. This intersection is signalized. There are no projects to improve this intersection in either the County Capital Improvement Program or the State Consolidation Transportation Program. The Planning Board has no recent available turning movement counts at the critical intersection of MD 5 and Surratts Road. Through review of past applications, it has been determined that the critical intersection of MD 5 and Surratts Road would operate unacceptably under existing, background, and total traffic. Furthermore, it has been determined that, short of constructing the planned interchange at this location, there are likely no at-grade improvements that can be made to the intersection that will be effective or feasible. Nonetheless, given that the guidelines clearly allow this site to be considered de minimus, the Planning Board finds that 4 AM and 5 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the MD 5/Surratts Road intersection.

The site is adjacent to Dangerfield Road, which is a master plan collector facility. Correct right-of-way seems to be depicted on the plan, but the plan must specifically note the dedication of 40 feet from centerline. Five residential lots would receive access via a shared driveway from Dangerfield Road. This is acceptable within the conservation subdivision. Section 24-128(b)(1) limits the use of such an access arrangement to four lots, but Section 24-152(j)(2) (as revised by CB-33-2008) allows up to eight lots to be served by a shared driveway or easement within the conservation subdivision.

TRANSPORTATION CONCLUSIONS

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

10. **Schools**—This preliminary plan was reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2003 and concluded the following.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	6 DU	6 DU	6 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	1.44	.36	.72
Actual Enrollment	3,909	4,065	7,278
Completion Enrollment	44.4	45.54	91.08
Cumulative Enrollment	112.56	34.8	68.76
Total Enrollment	4,067.4	4,145.7	7,438.56
State Rated Capacity	3,771	4,983	7,792
Percent Capacity	107.86	83.20	95.46

Source: Prince George's County Planning Department, M-NCPPC, August 2008

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. By resolution, the County Council adjusts the surcharge each year by the percentage change in the Consumer Price Index for all Urban Consumers published by the United States Department of Labor from the previous fiscal year.

County Council Resolution CR-48-2008 established the school facilities surcharge for Fiscal Year 2009, effective July 1, 2008, as \$8,177 and \$14,019 to be paid at the time of issuance of each building permit. The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The Special Projects Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-31-2003 and CR-23-2003.

11. **Fire and Rescue**—The Special Projects Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Sections 24-122.01(a)(2), 24-122.01(d), and 24-122.01(e)(1)(B)–(E) of the Subdivision Regulations. Special Projects staff has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Clinton, Company 25, using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of

Section 24-122.01(e)(1)(A, B) regarding sworn fire and rescue personnel staffing levels. The Fire/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.

12. **Police**—The subject property is located in Police District 5, Clinton. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on July 25, 2008.

Reporting Cycle	Previous 12 Month Cycle	Priority Calls	Non-priority Calls
Acceptance Date July 25, 2008	6/07 - 6/08	10 minutes	13 minutes
Cycle 1 - Cycle 3	6/07 - 6/08	10 minutes	13 minutes

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on August 12, 2008. The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police personnel staffing levels.

13. **Health Department**—When the house located at 9507 Dangerfield Road is connected to public water and sewer, the abandoned septic system serving the existing house must be pumped out by a licensed scavenger and either removed or backfilled in place as part of the grading permit. The location of the septic system should be located on the preliminary plan. An old privy found on Lot 1 between the house and the wetland must be removed. To abandon the privy, the contents should be removed if possible by a licensed scavenger or backfilled with lime prior to backfilling. If the contents cannot be removed, the materials should be limed and then backfilled before the release of the grading permit. A partially collapsed block springhouse/cistern located near the wetlands must be razed and any pump and associated piping should be removed before the release of the grading permit.
14. **Stormwater Management**—An approved Stormwater Management Concept Plan, CSD 49125-2006-00, was submitted. The CSD requires control of stormwater through the use of infiltration and a dry grass swale as shown on the TCPI. Development must be in accordance with this approved plan and any revisions.
15. **Archeology**—A Phase I archeological survey is not recommended on the Donald Carroll property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. Aerial photographs and topographic data indicate that a house was built on the property in the late 1940s and has impacted the southern part of the property. Nearby road construction and development has probably also impacted part of the property. However, the applicant should be aware that one historic resource, the Joseph

Stephenson House (81A-006), is located within a one-mile radius of the subject property. Poplar Hill/His Lordship's Kindness (81A-001), a 1784 plantation house, is also located within a two-mile radius of the subject property. This parcel of land was once part of the 7,000-acre land grant, His Lordship's Kindness. One prehistoric archeological site, 18PR315, is located within a one-mile radius of the subject property.

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

16. **Historic Preservation**—There is no impact on historic resources.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Vaughns, with Commissioners Squire, Vaughns, Cavitt and Clark voting in favor of the motion, and with Commissioner Parker opposing the motion at its regular meeting held on Thursday, January 15, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 19th day of February 2009.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator