

PGCPB No. 2025-014

File No. 4-23015

R E S O L U T I O N

WHEREAS, Loveland Development, LLC is the owner of a 10.00-acre parcel of land located at the terminus of Arden Land and Lumar Drive, approximately 265 feet southeast of Allentown Road, known as Part of Lot 60, described in a deed recorded in the Prince George's County Land Records in Book 47875 page 87 said property being in the 9th Election District of Prince George's County, Maryland, and being zoned Residential Estate (RE); and

WHEREAS, on September 11, 2024, Loveland Development, LLC filed an application for approval of Preliminary Plan of Subdivision 4-23015 for Loveland to subdivide the above-described property into 8 lots for residential development; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of 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 at a public hearing on February 6, 2025; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1900 *et seq.* of the Prince George's County Subdivision Regulations, subdivision applications submitted and accepted as complete before April 1, 2025 may be reviewed and decided in accordance with the Subdivision Regulations, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022 ("prior Subdivision Regulations"); and

WHEREAS, the applicant has complied with the procedures required in order to proceed with development under the prior Subdivision Regulations contained in Section 24-1904 of the Prince George's County Subdivision Regulations; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, at the February 6, 2025 public hearing, 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 TCP1-028-2024, APPROVED a Variance to Section 25-122(b)(1)(G), DISAPPROVED a Variance to Section 25-121(c)(3), and APPROVED Preliminary Plan of Subdivision 4-23015 for 8 lots, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:

- a. Revise the lots on which woodland conservation easement is located to be a minimum of one acre in net lot area.
 - b. Revise the primary management area, stream buffer, and all general notes as necessary, to be consistent with the approved natural resources inventory plan.
 - c. Revise General Note 10 to provide the area of road dedication along Lumar Drive.
 - d. Remove General Note 35 and the plan note that states that Lots 4–8 have access denied from Lumar Drive.
2. Development of this site shall be in conformance with Stormwater Management Concept Plan 15324-2023, once approved, and any subsequent revisions.
3. Prior to approval, the final plat of subdivision shall include:
 - a. The granting of a 10-foot-wide public utility easement along the public rights-of-way, as delineated on the approved preliminary plan of subdivision.
 - b. Right-of-way dedication in accordance with the approved preliminary plan of subdivision.
4. Prior to signature approval of the preliminary plan of subdivision, a copy of the approved stormwater management (SWM) concept plan and approval letter associated with this site shall be submitted. The limit of disturbance and stormwater facilities shall be consistent between the Type 1 tree conservation plan and the approved SWM concept plan.
5. Prior to approval of the final plat of subdivision, in accordance with Section 24-135 of the prior Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall provide a fee-in-lieu payment for mandatory parkland dedication for lots under one acre of net lot area.
6. In accordance with the 2009 *Approved Countywide Master Plan of Transportation*, and the 2006 *Approved Henson Creek-South Potomac Master Plan*, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following facilities, and the facilities shall be shown on the permit site plan:
 - a. A minimum 5-foot-wide sidewalk along both sides of Arden Lane, unless modified by the permitting agency with written correspondence, in accordance with any Prince George's County Department of Public Works and Transportation and Maryland State Highway Administration adopted standards.
7. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan shall be revised as follows:

- a. Add the following note under the specimen tree table:

“NOTE: This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on (ADD DATE) with 4-23015 for the removal of eight specimen trees (Section 25-122(b)(1)(G)) specifically Specimen Trees ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, and ST-8.”
 - b. Revise the on-site stream buffer to 75 feet.
 - c. Revise the plan to provide the required woodland conservation threshold of 2.44 acres entirely on-site.
 - d. Revise the plan to provide a fully wooded riparian stream buffer, in accordance with Section 25-121(c)(1)(C) of the Prince George’s County Code.
 - e. Have the revised plan signed and dated by the qualified professional who prepared it.
8. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-028-2024). The following notes shall be placed on the final plat of subdivision:
- “Development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-028-2024), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property, are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”
9. At the time of the Type 2 tree conservation plan review, the mitigation method (on-site individual tree planting or fee-in-lieu) for the replacement of the eight specimen trees shall be determined. If on-site tree planting is used to meet the replacement requirement, then these tree replacements shall be placed into a woodland conservation easement.
10. 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 and Wildlife Habitat 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.”
11. At the 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 of the Countywide Planning Division, of the Prince George's County Planning Department, 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 Prince George's County Planning Department Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

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 applicable 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 property is located at the terminus of Arden Lane and Lumar Drive, approximately 265 feet southeast of Allentown Road, within Tax Map 115, Grid C-1. The 10.00-acre property is known as Part of Lot 60, and is described by deed recorded in the Prince George's County Land Records in Book 47875 page 87. Lot 60 was originally recorded in the Prince George's County Land Records in Plat Book BB 6 Plat No. 76, in 1938. Since that time, portions of original Lot 60 have been divided by deed in 1953, resulting in the current acreage and configuration of the property.

The property is zoned Residential Estate (RE). However, this preliminary plan of subdivision (PPS) was submitted for review in accordance with the Prince George's County Zoning Ordinance and Prince George's County Subdivision Regulations effective prior to April 1, 2022 (the “prior Zoning Ordinance” and “prior Subdivision Regulations”), pursuant to Section 24-1900 *et seq.* of the current Subdivision Regulations. Therefore, this PPS was reviewed pursuant to the standards of the Residential Estate(R-E) Zone for the property, which was effective prior to April 1, 2022. The site is subject to the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* (master plan) and other applicable plans, as outlined herein.

This PPS allows for subdivision of the property into eight lots for development of eight single-family detached residential units. The property is currently vacant.

The subject PPS qualifies for review under the prior Zoning Ordinance and prior Subdivision Regulations because it meets the requirements of Section 24-1904 of the current Subdivision Regulations. The applicant participated in a pre-application conference for the subject PPS on May 19, 2023, pursuant to Section 24-1904(a) of the Subdivision Regulations. In accordance with Section 24-1904(b), the applicant provided a statement of justification received on December 27, 2024, explaining why they were electing to use the prior regulations. In accordance with Section 24-1904(c) of the Subdivision Regulations, this PPS is supported by and subject to an approved Certificate of Adequacy, ADQ-2023-026.

The applicant filed a request for a variance to Section 25-122(b)(1)(G) of the 2024 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO), for the removal of eight specimen trees. This request is discussed further in the Environmental finding of this resolution.

The applicant also filed a request for a variance to Section 25-121(c)(3) of the WCO, for not meeting the WCO threshold on-site. This request is discussed further in the Environmental finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 115, in Grid C1, and is within Planning Area 76B. The property is bound to the west and northwest by single-family detached dwelling units in the Residential, Rural (RR) Zone (formerly the R-R Zone). The public right-of-way of Arden Lane terminates at the northwest edge of the property boundary. To the north and east lies the unimproved right-of-way of Lumar Drive, with vacant land beyond within the Residential Estate (RE) Zone (formerly the R-E Zone). One of the properties located north of Lumar Drive recently obtained approval of a PPS for single-family detached residential development. To the south lie single-family detached residential dwellings within the RE Zone.
4. **Development Data Summary**—The following information relates to the subject PPS and the evaluated development.

	EXISTING	EVALUATED
Zone	RE	R-E
Use(s)	Vacant	Residential
Acreage	10.00	10.00
Lots	0	8
Parcels	1	0
Outparcels	0	0
Dwelling Units	0	8
Nonresidential Gross Floor Area	0	0
Variation	No	No
Subtitle 25 Variance	No	Yes, Section 25-122(b)(1)(G) Section 25-121(c)(3)

The subject PPS was accepted for review on September 11, 2024. Pursuant to Section 24-119(d)(2) of the prior Prince George's County Subdivision Regulations, this case was referred to the Subdivision and Development Review Committee, which held a meeting on September 27, 2024, where comments were provided to the applicant. Revised plans were received on December 27, 2024, January 6, 2025, and January 8, 2025, which were used for the analysis contained herein. Pursuant to Section 24-119(d)(4) of the prior Subdivision Regulations, the applicant submitted a letter granting a waiver of the 70-day review period on October 7, 2024.

5. **Previous Approvals**—The property is subject to a previous PPS, 4-05070, titled “Green Hills” (PGCPB Resolution No. 06-144(A)), which was approved by the Prince George’s County Planning Board on September 28, 2006. PPS 4-05070 was approved for nine lots for development of nine single-family detached residential units; however, the property was not platted subsequent to that approved PPS, within its validity date, and 4-05070 has since expired and is no longer valid for the property.
6. **Proposed lot layout and access**—The subject property is located at the terminus of Arden Lane. The property also has frontage along Lumar Drive, its northeast boundary, which is currently unimproved. This PPS includes eight residential lots and an extension of Arden Lane into the property, for access to the lots. Arden Lane is shown to terminate in a cul-de-sac, matching the design of adjacent subdivisions. Of the eight lots, three (Lots 3, 4, and 5) are more than one acre in net lot area, while the remaining five (Lots 1, 2, and 6–8) are less than one acre, but more than 40,000 square feet, meeting the minimum required net lot area in the prior R-E Zone. While Lots 4–8 are ‘through lots’, with frontage on both extended Arden Lane and Lumar Drive, no lots have access to Lumar Drive. Further discussion on site access is included in the Transportation finding of this resolution. The eastern portion of the property contains regulated environmental features (REF) consisting of a stream and associated 100-year floodplain and stream buffer. Further discussion on this REF is included in the Environmental finding of this resolution.
7. **Community Planning**—The 2014 *Plan Prince George’s 2035 Approved General Plan* (Plan 2035) and conformance with the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* (master plan) are evaluated, as follows:

Plan 2035

Plan 2035 places the subject property in the Established Communities Growth Policy Area. Plan 2035 classifies established communities as existing residential neighborhoods and commercial areas served by public water and sewer outside of the Regional Transit Districts and Local Centers. Established communities 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, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met (page 20).

Master Plan

According to Plan 2035, all planning documents which were duly adopted and approved prior to the date of adoption of Plan 2035, remain in full force and effect, except for the designation of tiers, corridors, and centers, until those plans are revised or superseded. Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, a PPS must conform to the area master plan, including maps and text, unless events have occurred to render the relevant recommendations within the plan no longer appropriate, no longer applicable, or the Prince George’s County District Council has not imposed the recommended zoning. The master plan recommends residential, low-density land uses on the subject property (page 159). Residential, low-density includes a maximum density of 3.5 dwelling units/acre with single-family detached building types, as defined in the master plan (Table 4, page 107). The subject PPS evaluates a density of 0.82 dwelling units/acre and eight lots for development of eight single-family detached

residential units. Pursuant to Section 24-121(a)(5), this PPS conforms to the master plan recommendations for land use and density.

Other relevant recommended goals, objectives, and guidelines of the master plan that affect the subject property are discussed below and throughout this resolution:

Development Pattern Element Chapter/Developing Tier Section (page 22)

Policy 1: Preserve and enhance existing suburban residential neighborhoods.

Strategies

- **Ensure that the design of new development in suburban residential areas maintains or enhances the character of the existing community.**
- **Retain low-density residential land use classifications for undeveloped parcels in established single-family residential neighborhoods.**
- **Encourage a wide variety of single-family designs and lot sizes.**

The PPS allows the subdivision of one parcel into eight lots for development of single-family detached dwelling units. The lot size and configuration are varied and allow for a low-density, single-family detached development consistent with the existing neighborhood. The applicant is encouraged to use various building materials and architectural design techniques in the development of the homes, to complement the existing residences.

**Economic Development, Housing, and Community Character Elements
Housing (page 92)**

Policy 2: Provide opportunities for low- to moderate-density, high-quality, high-value housing outside of centers and designated high-density areas.

Strategies

- **Develop comprehensive, well-designed neighborhoods and communities, not just individual housing units, to enhance their value to the owners and to the county.**
- **Encourage the development of active retirement housing, the incorporation of Americans with Disabilities Act design features to meet the needs of those with disabilities, and safe, affordable housing options for low- and moderate-income families.**

The infill development, consisting of eight single-family detached homes, will maintain the character of surrounding single-family residential neighborhoods. The PPS includes lots which will accommodate low-density residential development. The lots are of varied size and configuration, which is in keeping with the surrounding established neighborhood. The applicant is encouraged to use a variety of building materials, accessibility elements, and architectural designs techniques in development of the houses to complement the existing community and to enhance their value to the owners and the County. The applicant is also encouraged to incorporate Americans with Disabilities Act design features into the architecture of the proposed homes.

Community Character: Urban Design (pages 95–98)

Policy 2: Encourage traditional neighborhood design

Strategies

- **Ensure that the design of infill and new development is attractive and maintains or enhances the character of the existing communities.**
- **Develop compact single-family neighborhoods with connected street patterns rather than disconnected networks of culs-de-sac to enhance connectivity with activity centers, recreation and open space opportunities, and other neighborhoods.**
- **Provide a comprehensive network of well-lit (where appropriate) sidewalks, trails, bikeways, and paths that encourage walking and biking and contribute to the walkability of the master planning area.**
- **Ensure that sufficient public and private open spaces are provided to serve the needs of both current and future residents. If possible, locate homes within one-quarter mile (a five-minute walk) of open space and/or recreation facilities to increase accessibility to such amenities.**

The proposed infill development consisting of eight single-family detached homes will maintain the character of the surrounding single-family residential neighborhoods. The applicant is encouraged to use a variety of building materials and architectural designs techniques in the development of the homes, to complement the existing community character. The PPS includes lots which accommodate low-density residential development and are of varied size and configuration, which is in keeping with the surrounding established neighborhood. The PPS includes an extension of Arden Lane, for access to the residential lots. Due to the shape of the property, a cul-de-sac design is used matching adjacent subdivisions, but a continuous sidewalk is shown along the cul-de-sac, connecting to the existing sidewalks along Arden Lane and avoiding a disconnected network. This is also consistent with the master plan recommendation to provide a

continuous network of streets, sidewalks, and trails. Although the subdivision is not located within 0.25 mile of parkland, the site is located in close proximity, though not adjacent, to the Tinkers Creek Stream Valley Park. In addition, residents of the subdivision would be within a half-mile walking distance of Oaklawn Park, however, there is limited pedestrian infrastructure to indicate a safe connection.

Zoning

The master plan's associated sectional map amendment retained the subject property in the prior R-E Zone. On November 29, 2021, the District Council approved Prince George's County Council Resolution CR-136-2021, the Countywide Map Amendment, which reclassified the subject property from the R-E Zone to the RE Zone, effective April 1, 2022. However, this PPS was reviewed pursuant to the prior R-E zoning.

8. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan, or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. An unapproved SWM Concept Plan (15324-2023) was submitted with this PPS. At this time, the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) has not approved this SWM concept plan which proposes stormwater to be directed into six non-rooftop disconnects, eight dry wells, ten micro-bioretenement facilities, four enhanced filters, and one infiltration trench. The SWM concept plan also shows two new stormdrain systems directed into two outfalls. One stormdrain system is designed to collect and convey runoff from the adjacent development and Arden Lane, and the other is proposed to manage runoff from the subdivision. An approved SWM concept plan is required prior to signature approval of the PPS.

Development of the site, in conformance with the SWM concept plan and any subsequent revisions, once approved by DPIE, will ensure that no on-site or downstream flooding occurs. Therefore, this PPS satisfies the requirements of Section 24-130 of the prior Subdivision Regulations.

9. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of Plan 2035, the master plan, the 2022 *Land Preservation, Parks and Recreation Plan for Prince George's County*, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, and the prior Subdivision Regulations, as they pertain to public parks and recreational facilities.

The proposed development has no impact on the master plan's park and open space recommendations. The site is located approximately within two miles of Oaklawn Park and the Tinkers Creek Stream Valley Park. The master plan recognizes the lack of adequate pedestrian and bicycle linkages to schools, parks, and recreation facilities, and established goals to add approximately 940 acres of parkland, largely through the assemblage of land for stream valley parks.

Sections 24-134 and 24-135 of the prior Subdivision Regulations, which relate to mandatory dedication of parkland, provide for the dedication of land, the payment of a fee-in-lieu, and/or the provision of private recreational facilities to meet the park and recreation needs of the residents of the subdivision.

This PPS is for development of eight residential lots and, based on the permissible density of 1.08 dwelling units per acre of development, 5 percent of the net residential lot area (0.488 acre) could be required to be dedicated to The Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC. The 0.488 acre of dedicated land would not be sufficient to provide for the types of active recreational activities that are needed. As such, the applicant proposed to provide a fee-in-lieu of parkland dedication. Per Section 24-135 of the prior Subdivision Regulations, the Planning Board may approve the payment of fees in place of parkland dedication for lots less than one acre. Three of the residential lots, labeled as Lots 3, 4, and 5 on the PPS, are exempt from the mandatory parkland dedication requirement, per Section 24-134(a)(3)(B), since the net lot area of these lots exceeds one acre. However, five lots (Lots 1, 2, 6, 7, and 8) are less than one acre, for which fee-in-lieu may be considered.

The payment of a fee in-lieu of the mandatory dedication of parkland, for five of the eight residential lots, meets the requirements of Sections 24-134 and 24-135. The PPS is in conformance with applicable plans and the requirements of prior Subtitle 24 of the Prince George's County Code, as they pertain to parks and recreation facilities.

10. **Transportation (pedestrian, bicycle, and vehicular)**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), master plan, and prior Subdivision Regulations, to provide the appropriate transportation facilities.

Master Plan Right-of-Way

The subject property is located at the terminus of Arden Lane. The property also has frontage on Lumar Drive, along its northeast boundary. Neither the MPOT nor master plan contain any right-of-way recommendations for Arden Lane and Lumar Drive.

Master Plan Pedestrian and Bike Facilities

There are no master-planned pedestrian and bicycle facilities affecting the subject site.

The Complete Streets element of the MPOT reinforces the need for multimodal transportation and includes the following policies regarding the accommodation of pedestrians and bicyclists (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 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.

In addition, the master plan recommends the following policy:

Policy 3: Provide adequate pedestrian and bicycle linkages to schools, parks, and recreation areas, commercial areas, and employment centers.

A minimum 5-foot-wide sidewalk shall be provided along both sides of the Arden Lane extension. The sidewalk will encourage pedestrian movement through the site, to the adjoining neighborhoods and the nearby parks (Oaklawn Park and Tinker Creek Valley Park). The required facilities implement the intent of the master plan policies, to the extent feasible.

Access and Circulation

The subject PPS shows the extension of Arden Lane and its termination in a cul-de-sac. The extension serves all eight lots and provides adequate circulation to the site. The PPS displays Arden Lane as a 50-foot-wide right-of-way and shows 28,928 square feet (0.66 acre) of dedication for the length of the new roadway extension.

The subject property is bounded by Lumar Drive to the north, an unimproved public roadway with an ultimate 60-foot-wide right-of-way. Currently, Lumar Drive exists as a 40-foot-wide right-of-way along the property frontage. Ten feet of right-of-way dedication is shown along the northern boundary line of only Lots 7 and 8 of the development. DPIE, in their memorandum dated October 9, 2024 (de Guzman to Vatandoost), sought a 60-foot-wide ultimate right-of-way for Lumar Drive and requested the Planning Board require additional right-of-way be dedicated from the subject property, to provide a right-of-way width of at least 30 feet from the road centerline. DPIE's request was confirmed by Mr. Rene Lord-Attivor, in a meeting with staff on January 10, 2025. It was pointed out that DPIE required similar right-of-way dedication for the Tracy George Subdivision (PPS-2023-012), which was approved on February 23, 2024, for a property located to the north, across Lumar Drive.

While the Planning Board may impose conditions on a development approval to achieve a legitimate public purpose, including a requirement that an applicant convey a portion of its property to the County, the Planning Board cannot withhold or condition a development approval for reasons unrelated to that public purpose. DPIE's request that the applicant dedicate additional right-of-way lacks an essential nexus to its stated public purpose of establishing a 60-foot-wide ultimate right-of-way for Lumar Drive because no lots are designed to have access to Lumar Drive. In addition, neither the MPOT nor the master plan contain any right-of-way recommendations for Lumar Drive. The PPS also does not create a demand for a wider right-of-way along Lumar Drive because all access to the subdivision will run through Arden Lane. Therefore, the Planning Board did not require the additional right-of-way requested by DPIE.

Based on the findings presented above, multimodal transportation facilities will exist to serve the proposed subdivision, as required under prior Subtitle 24, and will conform to the MPOT and master plan.

11. **Public Facilities**—This PPS was reviewed for conformance to the master plan, in accordance with Sections 24-121(a)(5) and 24-122(b) of the prior Subdivision Regulations. The master plan contains the following policies for the provision of public facilities:

- **Construct the appropriate number of schools in order to achieve a school system that operates at 100 percent of capacity or less at every school.**
- **Provide for police facilities that meet the size and location needs of the community.**
- **Provide fire and rescue facilities in the Henson Creek-South Potomac area in order to meet the travel time standards adopted by the county.**

The proposed development will not impede the achievement of the public facility improvements recommended by the master plan. There are no police, fire and emergency medical service facilities, public schools, parks, or libraries recommended on the subject property.

This PPS is subject to an approved Certificate of Adequacy, ADQ-2023-026. The certificate of adequacy process ensures that infrastructure necessary to support a proposed development is built at the same time as, or prior to, the proposed development. Pursuant to applicable tests and standards, the Prince George's County Planning Director determined that public facilities will be adequate to serve the proposed development, as reflected in the approved ADQ.

The subject property is located in Planning Area 76B, which is known as Henson Creek. The 2024–2029 *Fiscal Year Approved Capital Improvement Program* budget does identify two new facilities proposed for construction - Police Department District IV Police Station located at 6501 Felker Avenue (3.50.0007), and Oxon Hill Fire/EMS Station located at 6501 Felker Avenue (3.51.0019). However, these facilities are not proposed on the subject site.

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities, and construction of new facilities, none of which affect this site.

Section 24-122.01(b)(1) of the prior Subdivision Regulations states that the location of the property, within the appropriate service area of the Ten-Year Water and Sewerage Plan, is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for PPS or final plat approval. The 2018 *Water and Sewer Plan* placed this property in water and sewer Category 3, Community System. Category 3 comprises all developed land (platted or built) on public water and sewer, and undeveloped land with a valid PPS approved for public water and sewer. The property is within Tier 1 of the Sustainable Growth Act, which includes those

properties served by public sewerage systems. The project is within an adequate water and sewer category for PPS approval.

12. **Public Utility Easement**—In accordance with Section 24-122(a) of the prior Subdivision Regulations, 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 public utility easements (PUEs) is a minimum of 10 feet wide along both sides of all public rights-of-way. The subject site abuts Lumar Drive, an existing public right-of-way. Also, Arden Lane is shown extended into the subdivision, terminating in a cul-de-sac, to provide access to the lots. All the required PUEs located on the subject property are shown on the PPS.

13. **Historic**—The master plan contains goals and policies related to historic preservation (pages 99 through 102). However, these are not specific to the subject site. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The subject property does not contain and is not adjacent to any designated Prince George’s County historic sites or resources.
14. **Environmental**—The following applications and associated plans were previously reviewed for the subject site:

Case	Associated Tree Conservation Plan	Authority	Status	Action Date	Resolution Number
4-05070	TCP1-004-06	Planning Board	Approved	3/8/2007	PGCPB No. 06-114
NRI-112-05	N/A	Staff	Approved	10/27/2005	N/A
NRI-112-05-01	N/A	Staff	Approved	10/5/2023	N/A
NRI-112-05-02	N/A	Staff	Approved	5/23/2024	N/A
4-23015	TCP1-028-2024	Planning Board	Approved	2/6/2025	2025-014

Applicable Woodland Conservation Ordinance

The project is subject to the 2024 Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance (WCO), which came into effect on July 1, 2024, because the development is subject to a new PPS, with a Type 1 tree conservation plan (TCP1) that was accepted after July 1, 2024. The project is also subject to the current environmental regulations contained in prior Subtitles 24 and 27 of the County Code. In conformance with Section 25-119(c)(2) of the WCO, notification mailings for the TCP1 were mailed to all adjoining property owners and registered associations on January 9, 2025.

Site Description

A review of the available information indicates that the site contains REF such as streams, non-tidal wetlands, their associated buffers, and 100-year floodplain. According to information

obtained from the Maryland Department of Natural Resources (DNR), Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of the site area. The elevation is highest near the northwest portion of the site, and then drains to the south and east towards the on-site stream system. This site is located within the Tinker Creek and Piscataway Creek watershed flowing into the Potomac River. Currently, the site area is located at the terminus of Arden Lane, which is not identified as a master plan roadway or a historic and scenic roadway.

Plan 2035

Plan 2035 locates the entire property in the Established Communities Growth Policy Area and Environmental Strategy Area 2 (formerly the Developed Tier).

Environmental Conformance with Applicable Plans

Master Plan

The master plan contains the following environmental related policies and strategies which have been determined to be applicable to this project. The specific language from the master plan is shown in **bold**, and the plain text provides comments on plan conformance.

Policy 1: Protect, preserve, and enhance the identified green infrastructure network within the Henson Creek planning area (page 61).

This project contains mapped evaluation and regulated areas of the Countywide Green Infrastructure Plan (GI Plan) of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*, and contains REF. The on-site REF are located along the southern property line including a stream, wetlands, associated buffers, steep slopes, and 100-year floodplain. Impacts to the on-site REF are shown for two stormdrains, two stormdrain outfall structures, and one sewer tie-in. The remaining on-site REF woodlands are preserved in a conservation easement.

Policy 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded (page 64).

Strategies:

- **Restore stream and wetland buffers to the fullest extent possible during the land development process.**

The approved natural resources inventory (NRI) plan shows REF and primary management areas (PMA) within the site area. This project preserves woodlands within the on-site REF and PMA, and reforests the proposed cleared area adjacent to the on-site woodland areas, in order to expand the on-site riparian area. The woodland conservation is adjacent to the stream buffer, and this additional buffering through preservation and reforestation further protects the stream, conforming to this policy.

Policy 3: Reduce Overall energy consumption and implement more environmentally sensitive building techniques (page 64).

As a PPS does not approve any structures, the subject PPS does not show any environmentally sensitive building techniques. However, the use of environmentally sensitive building techniques is encouraged.

Policy 4: Reduce light pollution and intrusion into rural and environmentally sensitive areas (page 64).

The site is not located in a rural area, but REF such as a stream, wetland, associated buffers, and 100-foot floodplain can be found on-site. The adjacent properties consist of existing residential lots and unimproved Lumar Drive. The proposed lighting details will be addressed at the time of permit review.

Policy 5: Reduce noise impacts to meet State of Maryland noise standards (page 64).

This project is for an eight-lot residential subdivision. The site is surrounded by existing single-family detached residential dwellings and woodlands. The adjacent roads, Arden Lane and Lumar Drive, are not identified as a collector roadway or greater by MPOT. The evaluated use is not anticipated to generate noise impacts.

2017 Green Infrastructure Plan

The GI Plan was approved on March 17, 2017, with the adoption of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017). According to the GI Plan, this site contains regulated and evaluation areas.

The following policies and strategies are applicable to the subject PPS. The text in **bold** is the text from the GI 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.

Strategies

- 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.**

The site does contain designated evaluation and regulated areas, as defined in the GI Plan. The area contains an unnamed tributary to the North Branch of Tinkers Creek with associated buffers. These water features are within a stronghold watershed and Tier II catchment area identified by DNR. The site has been impacted by uncontrolled stormwater runoff from Arden Lane and the adjacent residential development. There are two ephemeral stream systems that flow into the on-site unnamed stream system. This project collects the uncontrolled stormwater by directing it towards a proposed stormdrain system and to a stormwater outfall structure draining into the unnamed stream system. The remaining riparian woodlands will be preserved and placed in a conservation easement. Additional reforestation plantings expand the on-site riparian system. To further protect the existing REF, the SWM facilities will be reviewed by DPIE, and sediment and erosion control measures will be reviewed by the Prince George's County Soil Conservation District (PGSCD).

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.**

This project is not located within a Sensitive Species Project Review Area or Special Conservation Area. SWM will be reviewed by DPIE, and sediment and erosion control measures will be reviewed by PGSCD. These reviews require that environmental site design (ESD) be implemented to the maximum extent practicable, and that all stormwater will be contained and treated on-site, to protect off-site REF.

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

Strategies

- 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.**

The site area does not contain network gap areas. The entire site is located in either regulated or evaluation areas.

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

Strategies

- 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.**

No fragmentation of REF by transportation systems is included with this PPS.

- 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.**

No new trails are included with this PPS.

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

Strategies

- 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.**

The on-site preservation and reforestation area will be placed in a woodland conservation easement. This reforestation planting area is located within newly graded areas to expand the on-site woodland PMA. The property does not contain special conservation areas.

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

The site area has a linear on-site floodplain and stream sections located along the southern portions of the property. The unapproved SWM concept plan shows the use of stormdrains with outfall structures and one sewer tie-in. One of the two stormdrains will collect uncontrolled runoff from the adjacent existing residential subdivision coming from Arden Lane. The other stormdrain will collect stormwater from the proposed development. While DPIE has not yet approved the SWM concept plan, they have indicated that the uncontrolled runoff from adjoining development traversing the subject property was a concern. DPIE will require these stormdrain structures to protect the on-site stream system from the existing and proposed development.

Strategies

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.

The site area has been impacted by uncontrolled stormwater runoff from Arden Lane and the adjacent subdivision. There are two ephemeral stream systems that flow into the on-site unnamed stream system. This project collects the uncontrolled stormwater by directing it towards a proposed stormdrain system and to a stormwater outfall structure into the unnamed stream system. The PPS will also have various stormwater structures with one stormdrain conveying the water to another stormwater outfall structure into the unnamed stream system. State regulations require that developments treat stormwater on the subject property and outfall the water safely to a wetland or stream system without creating erosion. The proposed outfall structures are located on-site within the stream system.

5.9 Prioritize the preservation and replanting of vegetation along streams and wetlands to create and expand forested stream buffers to improve water quality.

One on-site REF area is impacted for the two stormdrain systems with outfall structures, and one sewer tie-in. This area cannot be reforested, due to infrastructure maintenance requirements. The wooded PMA adjacent to this REF impact area will be placed in preservation and will be expanded to the on-site riparian area. DPIE will approve and inspect the proposed impacted REF area to make sure that water quality is not impacted by proposed impacts.

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.

The PPS shows five lots are under one acre and three lots over one acre. Two of the lots over one acre (Lots 4 and 5) are to have woodland preservation on-site. The on-site and off-site stormdrain system outfalling into the on-lot stream section and the sewer main tie-in are located on the remaining lot over one acre (Lot 3).

No woodland preservation can happen on Lot 3, due to the location of the infrastructure, the maintenance of this infrastructure, and establishment of required utility easements. The woodland preservation areas contain REF and PMA, which are required to be preserved within the woodland conservation easement. Since the remaining lots within this subdivision are smaller (less than one acre), the use of off-site woodland banks will be allowed to meet their woodland conservation requirement.

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.

The PPS shows clearing during development of the property. This woodland clearing is in the eastern and western portions of the site containing PMA and will be preserved and placed in a conservation easement. The area adjacent to the newly created woodland edge was cleared for elevation tie-in grading. This cleared area will be reforested with native species and placed in the conservation easement.

Environmental Review

Natural Resources Inventory/ Existing Conditions

Approved NRI-112-05-02 was submitted with the PPS. The NRI verifies that the subject area contains 1.40 acres of PMA and REF areas (stream, stream buffer, 100-year floodplain, and steep slopes), 9.20 acres of net tract woodlands, and eight on-site specimen trees.

The PPS shows all required information correctly, in conformance with the NRI.

Woodland Conservation

The site is subject to the provisions of the 2024 WCO because the PPS was accepted after July 1, 2024. The property is greater than 40,000 square feet and contains more than 10,000 square feet of existing woodland. This project is also subject to the Environmental Technical Manual (ETM).

Based on the TCP1, this 10.00-acre site contains 0.24 acre of floodplain for a net tract area of 9.76 acres. The site is fully wooded, so the site also contains a total of 9.76 acres of net tract woodlands and 0.22 acre of wooded floodplain. The woodland conservation threshold of 25 percent of the site's net tract area is 2.44 acres. The plan shows clearing of 6.80 acres of net tract woodlands and 0.05 acre of wooded floodplain. The resulting woodland conservation requirement is 9.29 acres, and this is to be met with 1.46 acres of preservation, 0.27 acre of on-site reforestation, and 7.56 acres of off-site credits. As shown, the development does not meet the 25 percent woodland conservation threshold on-site.

The TCP1 shows 1.73 acres of woodland conservation on-site, which is 0.71 acre short of providing the 25 percent woodland conservation threshold on-site, as required by Section 25-121(c)(3) of the WCO. On January 6, 2025, the applicant submitted a variance from the requirement of providing the entire woodland conservation threshold on-site. The variance request is not supported and a condition is included herein requiring the applicant to revise the plan to provide the woodland conservation threshold entirely on-site. The analysis of this variance is provided below in this resolution.

The site contains a riparian stream buffer that is required to be fully wooded in accordance with Section 25-121(c)(1)(C) of the WCO. Lines 46–52 of the WCO worksheet on the TCP1 indicate that the site contains 1.40 acres of regulated stream buffer that is entirely wooded. It also indicates that a statement of justification (SOJ) regarding the planting requirement of the stream buffer was submitted and that the reforestation shown on the plan meets the requirement of a fully wooded stream buffer. No SOJ was received regarding the requirement for a fully wooded stream buffer with the subject PPS. The TCP1 and the PMA SOJ indicate clearing within the stream buffer and is not to be replaced. Further, there are numerous existing and proposed easements within the stream buffer preventing portions of the buffer from being planted or counted as woodland conservation credits; however, a portion of the stream buffer is shown on Lot 3, outside of such easements, that is required to be planted. There are exceptions to the requirement for a fully wooded riparian stream buffer, outlined under Section 25-121(c)(1)(C), for which this PPS may qualify; however, the applicant did not assert that the property falls within one of these exceptions, nor did the applicant demonstrate any compliance with the exceptions within the PPS. As part of TCP1 revisions to address the threshold on-site, the applicant shall also address the required stream buffer planting.

Technical revisions are required to the TCP1, which are included in the conditions listed in this resolution.

Variance from Section 25-121(c)(3)

Section 25-121(c)(3) requires that “The woodland conservation and afforestation threshold requirements shall be met on-site or an application for a variance must be submitted and approved

per Section 25-119(d).”

The authorizing legislation of Prince George’s County’s WCO is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in Prince George’s County’s WCO are set forth in Section 25-119(d) of the WCO. Section 25-119(d)(6) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

A Subtitle 25 variance request and associated SOJ, dated January 6, 2025, were submitted for review with this PPS concerning why the required woodland conservation threshold cannot be met on-site. Five of the lots are less than one acre and, according to the design requirements in Section 25-122(b)(1)(F) of the WCO, woodland conservation credits are not permitted on lots less than one acre in size. In response to the design requirement of not allowing woodland conservation credits on lots less than an acre, the applicant requested a variance to the design requirements to allow woodland conservation on lots less than an acre. This request is not supported because the woodland conservation on the lots less than an acre would require protective easements that would restrict the use of the lots for the homeowners. The 1993 WCO did allow woodland conservation on lots less than an acre without the requirement of recording a protective easement over the woodland conservation. After the overall TCP approvals for subdivisions, individual homeowners of lots less than an acre often put in requests to remove the woodland conservation on the lots, as it was too restrictive. In response to these concerns, the applicant withdrew the variance request from Section 25-121(c)(1) and instead submitted a variance request to not meet the entire woodland conservation threshold on-site. This variance is not approved and a condition is included with this the PPS to provide the entire woodland conservation threshold on-site. An analysis of the requested variance is provided below. Section 25-119(d) contains six required findings (text in **bold** below) to be made before a variance to the WCO can be granted.

An evaluation of this variance request, with respect to the required findings, is provided below. The request to not provide the woodland conservation threshold on-site is disapproved, based on these findings:

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

Per the requirements of Section 25-121(c)(1), amended by Prince George’s County Council Bill CB-020-2024, this project is required to provide, at a minimum, the woodland conservation threshold of 2.44 acres on-site.

The applicant stated that special conditions peculiar to the property have caused unwarranted hardship in meeting the requirement, which include the irregular shape of the property, the fixed location of existing access point (Arden Lane) from adjacent residential subdivision, the zoning regulations, the existing sewer main line, the requirement of providing SWM, and extent of on-site PMA areas.

In addition, the applicant cited the development reviews of DPIE to obtain the approvals for the grade establishment plan for access from Arden Lane and providing SWM for the development.

The Planning Board did not agree with the applicant's justification. The property is not irregular in shape, as it is almost rectangular at the point where it meets Arden Lane, and only tapers to a point at the easternmost part of the parcel. Arden Lane is built up to the property line and is available for the applicant to continue the construction for access to the development. This saved the applicant the cost of fully constructing a connection to Lumar Drive, which is a right-of-way dedicated by deed on the northeast boundary of the site. The requirement to develop property in conformance with the zoning regulations for lot size, lot width at the front building line, and at front street line is not a special requirement peculiar to the property and is not considered a hardship. A sewer line exists on the property, which the applicant proposes to connect into for public sewer for the subdivision, so there is no requirement to construct extensive sewer lines. The management of stormwater is a requirement for any development in Prince George's County and is not considered peculiar to this property or an unwarranted hardship. Regarding the PMA, the approved NRI-112-05-02 reports that of the 10 acres included in this project, the PMA consists of 1.50 acres, which is 15 percent of the overall site. Neither the presence nor acreage of PMA associated with the site is peculiar, as PMA is located on properties throughout the County. In response to the requirements of other agencies, all development in the County requires reviews and approval of plans by DPIE, the Washington Suburban Sanitary Commission, the Prince George's County Department of Public Works and Transportation (DPW&T), and PGSCD, and as a result, would not be something peculiar to this property.

While it is acknowledged that the PPS includes lots in conformance with the zoning regulations, and the grade establishment is required by DPIE and DPW&T to utilize Arden Lane, the layout does not provide the entire woodland conservation threshold on-site as required in Section 25-121(c)(3) of the 2024 WCO. In accordance with Section 25-122(b)(1)(F), residential lots must be at least one acre in size in order to count woodland conservation thereon toward meeting the on-site requirement. Woodland conservation is shown on lots less than one acre in size, with a covenant over the woodland area to ensure future retention. However, given that these lots (Lots 6, 7, and 8) are not over one acre in size, the woodland conservation area does not meet the technical requirement to be counted and is the reason for this variance request. The minimum requirement for one acre lots is to ensure that building envelopes and yard areas are sufficient without encumbrances on private lots, as any woodland conservation used to meet on-site requirements is required to be placed in an easement. The applicant was found to create their own hardship because, if the lots were all over an acre in size, the woodland conservation could be placed on the lots without needing a variance.

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

The applicant stated that the proposed tree (canopy) cover will exceed the minimum requirements enjoyed by the existing development of the area, and that the development will require building permit review, where site and landscape plans will be reviewed for conformance with zoning regulations, the 2010 *Prince George's County Landscape Manual* (Landscape Manual), the Prince George's County Tree Canopy Coverage Ordinance requirements, and a Type 2 tree conservation plan (TCP2).

However, enforcement of the requirement to develop property in conformance with the regulations of the Zoning Ordinance, the Landscape Manual, and the requirements of the 2024 WCO, which includes the tree canopy coverage requirement, does not deprive the applicant the right to develop the property. These regulations are requirements for any development proposal.

If similar constraints are encountered on other sites for comparable developments, they will be evaluated under the same criteria. It was not found that these are adequate justifications for the variance from Section 25-121(c)(3). If the subdivision proposed lots that were an acre in size, the woodland conservation currently proposed as preserved, retained but not counted, and the reforestation could be counted toward meeting the woodland conservation threshold on-site.

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

The applicant stated that granting the variance will not confer on them a special privilege that would be denied to other applicants because this would allow the applicant to move forward with an appropriately scaled development on the subject property. The applicant cited the approval of PPS 4-05070 and TCP1-004-06 for this property, which utilized the lot size averaging development option for nine lots. In addition, the applicant stated that the property owner is being denied privileges that other property owners have enjoyed who submitted plans prior to July 1, 2024, under the prior WCO requirements. The applicant also stated that DPIE required a floodplain study for the property, which resulted in the location of a floodplain on-site. A geotechnical report was required due to evidence of surface mining as gravel pits in the form of steep unnatural slopes, and signs of dumping, including piles of concrete chunks, an abandoned vehicle, roofing shingles, scrap metal, used tires, old refrigerators, etc., and a traffic study was required for the PPS. The applicant claimed that these additional studies delayed acceptance of the PPS after July 1, 2024, thus subjecting this PPS to the 2024 WCO and the new requirement under Section 25-121(c)(3).

The use of the lot size averaging development is not a current option under both the prior Subdivision Regulations and Zoning Ordinance. Prior approval PPS 4-05070 has expired and can no longer be realized. If similar constraints are encountered on other sites for comparable developments, they would require studies to analyze the floodplain, existing geotechnical conditions, and traffic patterns, and would be subject to all current County Code requirements.

Therefore, the granting of this variance would be a special privilege not granted to other applicants.

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

The applicant stated that granting the variance is not based on conditions or circumstances which are the result of actions by the applicant.

However, this request is based on conditions or circumstances which are the result of actions by the applicant, in designing the subdivision. The proposed development of eight single-family detached lots is proposed by the applicant and the reason for the variance request.

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

The applicant stated that granting the variance to remove more trees does not arise from any condition on a neighboring property, and the Planning Board agrees.

The adjacent uses are existing residential lots, a proposed residential development and road extension to the north, residential and woodlands to the west, and woodlands to the south and east. The subject property was not affected by the neighboring uses.

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

The applicant stated that granting the variance will not adversely affect water quality because the SWM design for the site is required to meet the current regulations which require the post-development conditions to mimic a pre-development condition of the site. The site development concept plan has been prepared to provide the required ESD to the maximum extent practicable water quality requirements through numerous ESD features.

The Planning Board agrees with the applicant that, while the granting of this variance will not adversely affect water quality, meeting the woodland conservation threshold on-site does, however, provide water quality benefits. The proposed development would rely on the engineered controls for water quality

protection as monitored by DPIE and PGSCD. The project will be subject to the erosion and sediment control requirements of PGSCD, and the approval of a SWM concept plan by DPIE.

The required findings of Section 25-119(d) have not been adequately addressed for not providing the woodland conservation or afforestation threshold on-site. The requested variance to Section 25-121(c)(3) is, therefore, disapproved and the requirement to provide the minimum 25 percent woodland conservation threshold entirely on-site is required, which may result in the need to adjust or remove lots.

Specimen Trees

Section 25-122(b)(1)(G) of the WCO requires that “Specimen trees, champion trees, and trees that are part of a historic site, or are associated with a historic structure, shall be preserved. The design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone, in keeping with the tree’s condition, and the species’ ability to survive construction, as provided in the [Environmental] Technical Manual.” The code, however, is not inflexible.

The authorizing legislation of Prince George’s County’s WCO is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in Prince George’s County’s WCO are set forth in Section 25-119(d). Section 25-119(d)(4) of the WCO clarifies that variances granted under Subtitle 25 are not considered zoning variances.

Variance for Specimen Tree Removal

A Subtitle 25 variance and a letter of justification (LOJ), dated December 19, 2024, was submitted for review with this PPS. The following analysis reviews the request to remove eight specimen trees.

The LOJ requests the removal of eight specimen trees identified as ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, ST-7 and ST-8. The condition of trees proposed for removal ranges from good to fair. The TCP1 shows the location of the trees proposed for removal. These specimen trees are to be removed for development of the site and associated infrastructure.

The LOJ addresses the required findings for the removal of eight specimen trees. Section 25-119(d) contains six required findings (text in bold below) to be made before a variance to the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below. Removal of the eight specimen trees requested by the applicant is approved, based on these findings:

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

In relation to other properties in the area, special conditions peculiar to the property would cause an unwarranted hardship if the applicant were required to retain the eight specimen trees identified as Specimen Trees ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, and ST-8. The site area is a fully wooded site located at the end of existing Arden Lane, which has uncontrolled stormwater flowing across an already varying sloped topography, creating ephemeral channels on-site. The adjacent Arden Lane subdivision, when developed, will construct a sanitary sewer line across the site area to an existing sewer main.

The site was previously approved for a nine-lot single-family residential development, but the permits and approvals (PPS 4-05070) were left to expire. Now, the PPS has to be reviewed for updated SWM regulations and road design requirements. As part of this PPS, the applicant's engineer has been working with the Site Road Section of DPIE to create an extension of Arden Lane with a cul-de-sac. The existing location of Arden Lane adjacent to the site area presents challenges, due to the uncontrolled stormwater and the varying topography to construct a standard road section.

This specimen tree removal variance request was analyzed using the Woodland and Wildlife Habitat Conservation Priorities as outlined in Section 25-121(b)(1) of the WCO.

Based on these priorities and the uniqueness of the property setting, the eight specimen trees are located on the developable portion of the site and in areas necessary to meet the state and county infrastructure requirements. The PPS shows lots under and greater than one acre within the development. The two lots over an acre have woodland preservation containing the subdivision PMA. The remaining lots under an acre are not allowed to have on-lot woodland preservation.

The specimen trees requested for removal will allow for the protection of the woodlands with the highest priorities as listed in Section 25-121(b)(1), to the maximum extent practicable and allow for development of this site to occur in the lower priority areas (forested land with existing utility easements, uncontrolled SWM on varying topography) of the site. Requiring the applicant to retain these eight specimen trees on the site by designing the development to avoid impacts to the critical root zone would further limit the area of the site available for the orderly development that is consistent with the zoning, to the extent that it would cause the applicant an unwarranted hardship.

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

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas with comparable zoning.

All variance requests for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the ETM for site-specific conditions. Specimen trees grow to such a large size because they were left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all unique for each site. The eight trees requested for removal are due to their location on-site adjacent or within building areas, road and utility construction, and grading due to varying existing topography. Based on the location and species of the specimen trees proposed for removal, retaining the trees and avoiding disturbance to the critical root zone of Specimen Trees ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, and ST-8 would have a considerable impact on the development potential of the property. When similar trees were encountered on other sites for comparable developments, they have been evaluated under the same criteria.

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

Not granting the variance request for Specimen Trees ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, and ST-8 would prevent the site from being developed in a functional and efficient manner like other developments of similar size and use. This is not a special privilege that would be denied to other applicants. Other similar residential developments featuring specimen trees in similar conditions and locations have been subject to the same considerations 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 applicant has taken no action leading to the conditions or circumstances that are the subject of the variance request. The location of the trees and other natural features throughout the property is based on natural or intentional circumstances that long predate the applicant's interest in developing this site. On-site topography throughout the site varies and the required engineering of proposed grading is needed to make the subdivision work. The request to remove the trees is solely based on the trees' locations on the site and the existing varying elevations.

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

There are no existing conditions relating to land or building uses on the site, or on neighboring properties that have any impact on the location or size of the eight specimen trees. The specimen trees have grown to specimen tree size based on natural conditions and have not been impacted by any neighboring land or building uses.

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

Granting this variance request will not adversely affect water quality standards nor cause measurable degradation in water quality. Requirements regarding SWM will be reviewed and approved by DPIE. Erosion and sediment control requirements are reviewed and approved by PGSCD. Both SWM and sediment and erosion control requirements are to be met in conformance with state and local laws to ensure that the quality of water leaving the site meets the state's standards. State standards are set to ensure that no degradation occurs.

The required findings of Section 25-119(d) have been adequately addressed for the removal of eight specimen trees identified as Specimen Trees ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, and ST-8. The variance for removal of eight specimen trees for construction of residential development in the prior R-E Zone is, therefore, approved.

Preservation of Regulated Environmental Features/Primary Management Area

REF are required to be preserved and/or restored to the fullest extent possible under Section 24-130. The on-site REF includes streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, and steep slopes.

Section 24-130(b)(5) of the prior Subdivision Regulations 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 REF 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, 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 REF. SWM outfalls may also be considered necessary if the site has been designed to place the outfall at the point of least impact. The types of impacts that should 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 development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with the County Code.

The PPS includes impacts to the PMA for the following: two SWM outfalls, two stormwater drainpipes, and one sewer line tie-in connection. A SOJ was submitted with the application dated March 25, 2024, and revised December 24, 2024.

PMA Impact Area	PMA (SF)	Stream Bed (LF)	100-year Floodplain (SF)	Stream Buffer (SF)	Stream Area (SF)	Wetland and Wetland Buffer (SF)
Impact 1 - Sewer line connection, Stormdrain and SWM Outfall	18, 567	0	1,383	16,182	1, 002	0
Impact 2 – SWM Outfall	0	104	0	0	0	0
Total	18,567 / (0.42 AC)	104	1,383 / (0.03 AC)	16,182 / (0.42 AC)	1,002 / (0.02 AC)	0

The SOJ included a request to impact 0.42 acre (18,567 square feet) of on-site PMA for two SWM outfalls, two stormwater drainpipes, and one sewer line tie-in connection. The sewer line tie-in connection will service the entire residential development. Currently, the applicant is in the Maryland Department of the Environment (MDE) permit process for the proposed impacts.

At the Subdivision and Development Review Committee meeting, it was requested that the applicant provide the PMA impact analysis reflecting the 100-foot-wide stream buffers, as enacted by CB-022-2024, for developments proceeding under the current Subdivision Regulations; however, this was an error because this PPS is proceeding under the prior Subdivision Regulations, and the 75-foot-wide buffer is the correct buffer for this application. A condition was added to revise the plans to reflect the 75-foot-wide stream buffer of the prior Subdivision Regulations. Although the quantities in this analysis utilize the impacts totals as the result of the 100-foot-wide stream buffer, the request impacting the PMA reflective of the 75-foot-wide stream buffer is approved.

The PMA impacts are considered necessary for the orderly development of the subject property. These impacts cannot be avoided because they are required by other provisions of the County and State codes. The plan shows the preservation, restoration, and enhancement of the remaining areas of the PMA.

Analysis of Impacts

Based on the revised SOJ, the applicant requested a total of two impact areas, as described below:

Impact 1—Sewer line connection, Stormdrains, and SWM Outfall Impact

PMA impacts totaling 18,567 square feet for one stormwater outfall structure, two stormdrains, and a sewer line connection. Stormdrains and outfalls need to be placed within low lying areas usually near stream systems to have positive drainage and prevent erosion during storm events. The SWM facility impact area is in accordance with the unapproved SWM concept plan.

Impact 2—SWM Outfall Impact

PMA impacts totaling 104 linear feet of stream bed for an outfall structure. This impact is necessary to ensure the conveyance of stormwater to the stream without causing erosion. The SWM facility impact area is in accordance with the unapproved SWM concept plan.

These PMA impacts (Impacts 1 and 2) have been evaluated as necessary to develop the property. These two impact areas are for the installation above and below the ground for two proposed stormdrain pipes, two outfall structures, and a sewer line connection. The easement area around these structures will remain assumed cleared of woodlands for maintenance purposes.

The PPS is being reviewed under the prior zoning code and the appropriate stream buffer distance is 75 feet. The TCP1 depicts this and the PMA justification used the current 100-foot stream buffer. Based on the level of design information currently available, the limits of disturbance shown on the TCP1, and the impact exhibit provided, the REF on the subject property have been preserved and/or restored to the fullest extent possible. Therefore, Impacts 1 and 2 are approved.

The MDE license(s) will be verified at the time of County permit review for the impacts, to ensure compliance to conditions, and that any associated mitigation plans are represented on the TCP2. Any alterations to the PMA impacts, as a result of the MDE approvals, shall be reflected on a revised TCP2.

Soils

According to the United States Department of Agriculture Natural Resources Conservation Services Web Soil Survey, the soil types found on-site are Beltsville – Urban land complex, Croom-Marr complex, and Grosstown gravelly silt loam soils. No Marlboro clay or Christiana clay were identified on-site.

A Phase I environmental site assessment report titled Arden Lane, prepared by Geotechnical Laboratories, Inc., and dated May 24, 2022, has been submitted with the PPS. The report stated that there was evidence of surface mining as gravel pits in the form of steep unnatural slopes. It also stated there was evidence of dumping. At the time of grading permit, the applicant shall obtain approvals from MDE and DPIE for removal of the debris.

15. **Urban Design**—This PPS includes eight lots for development of eight single-family detached homes. Per Section 27-441(b) of the prior Prince George’s County Zoning Ordinance, a detailed site plan is not required for the proposed development. The single-family detached residential use is permitted in the prior R-E Zone, per Section 27-441(b).

The regulations and requirements of the prior Zoning Ordinance (applicable to this development within the R-E Zone), applicable sections of the Landscape Manual, and requirements of the Tree Canopy Coverage Ordinance of the County Code will be evaluated at the time of permit review.

16. **Citizen Feedback**—A letter was received from Mr. Burroughs, Vice Chair of Prince George’s County Council District 8, referencing Maryland House Bill 257 and expressing support for the project. This House Bill, which is not yet approved, proposes the establishment of a food forest and foraging program on areas owned or managed by DNR. Vice Chair Burroughs also indicated,

in his letter, that the increase in woodland conservation requirements from 20 percent to 25 percent has negatively impacted the project. It is noted that the woodland conservation requirements have not changed in the 2024 WCO and remain at 25 percent, as before. In addition, the WCO does not apply to orchards which were proposed by the applicant, and they are not counted as woodlands.

17. **Planning Board Hearing on February 6, 2025**—At the February 6, 2025 Planning Board hearing, staff presented the PPS to the Planning Board. Prior to the noon deadline on February 4, 2026, the applicant submitted six exhibits, in support of their project and the requested variances. The applicant also requested revisions to Condition 9, to allow woodland conservation easements on lots less than one acre in size. Condition 9 is related to mitigation required for the removal of eight specimen trees, which will be evaluated with a subsequent TCP2.

The applicant's attorney, Mr. Rivera, provided a project history and summary. Mr. Rivera asserted that the required woodland conservation threshold can be provided on-site, if the Planning Board allows woodland conservation to be provided on lots less than one acre in area. Three co-owners of the property then provided testimony, emphasizing their intention to create the Loveland subdivision as a legacy family community and highlighting the development's significance for their family.

The Planning Board also heard testimony from a local community member who expressed concerns about increased traffic generated by the proposed development and its impact on the local roads. The citizen was also concerned about the lack of cohesive sidewalks in the neighborhood. The citizen emphasized the existing residential character of the neighborhood and expressed a desire to maintain its character.

The Planning Board echoed the importance of establishing a legacy family community, as expressed by the applicant. However, the Board expressed that the hardship of not meeting the woodland conservation threshold on-site was one created by the applicant, and disapproved the variance request to Section 25-121(c)(3). The Board also did not approve the applicant's requested revisions to Condition 9. The applicant then offered a condition of approval to revise the PPS, prior to certification, to ensure that lots on which woodland conservation easement is located are a minimum of one acre in area. The Board approved the PPS with this additional condition.

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.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey, Doerner, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, February 6, 2025, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of February 2025.

Peter A. Shapiro
Chairman

By Jessica Jones
Planning Board Administrator

PAS:JJ:MV:tr

APPROVED AS TO LEGAL SUFFICIENCY

A handwritten signature in black ink, appearing to read "D. Warner", is written over a light blue rectangular background.

David S. Warner
M-NCPPC Legal Department
Date: February 21, 2025