



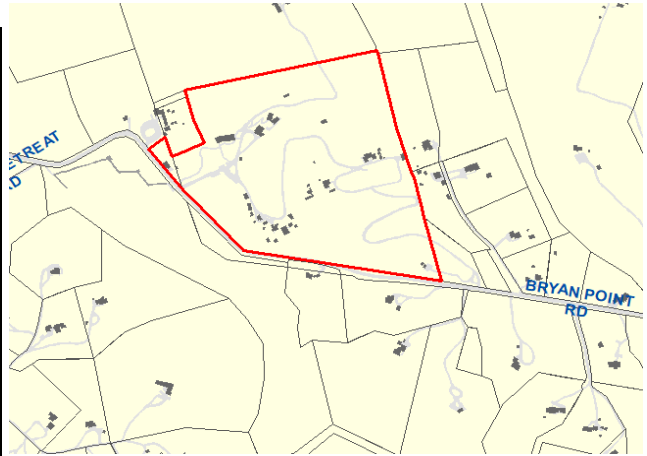
The Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530

Note: Staff reports can be accessed at <http://mncppc.iqm2.com/Citizens/Default.aspx>

Revision of Site Plan **ROSP-4463-03**
Chesapeake Bay Critical Area Conservation Plan **CP-10005-01**
Alice Ferguson Foundation (Hard Bargain Farm)

REQUEST	STAFF RECOMMENDATION
Revision of a Special Exception Site Plan and CBCA Conservation Plan to remove previously approved 12,240-square-foot educational building and replace it with a 60 by 40 foot open-air pavilion and associated parking modifications.	APPROVAL with conditions

Location: On the north and east of Bryan Point Road, approximately 2.4 miles west of Farmington Road.	
Gross Acreage:	18.00
Zone:	O-S/R-C-O
Gross Floor Area:	17,826 sq. ft.
Lots:	N/A
Parcels:	02
Planning Area:	83
Council District:	09
Election District:	05
Municipality:	N/A
200-Scale Base Map:	219SW02
Applicant/Address: Alice Ferguson Foundation 2001 Bryan Point Road Accokeek, MD 20607	
Staff Reviewer: Thomas Sievers Phone Number: 301-952-3994 Email: Thomas.Sievers@ppd.mncppc.org	



Planning Board Date:	03/04/2021
Planning Board Action Limit:	N/A
Staff Report Date:	02/17/2021
Date Accepted:	12/10/2020
Informational Mailing:	09/03/2020
Acceptance Mailing:	12/03/2020
Sign Posting Deadline:	N/A

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at http://www.mncppcapps.org/planning/Person_of_Record/. Please call 301-952-3530 for additional information.

Table of Contents

EVALUATION CRITERIA.....	3
FINDINGS.....	3
A. Location.....	3
B. Development Data Summary.....	4
C. History.....	4
D. Master Plan and General Plan Recommendations.....	4
E. Request.....	4
F. Neighborhood and Surrounding Uses.....	4
G. Zone Standards.....	5
H. Design Requirements.....	5
I. Required Findings.....	5
J. Referrals.....	10
K. Determinations.....	11
CONCLUSION.....	11

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Revision of Special Exception Site Plan ROSP-4663-02
Chesapeake Bay Critical Area Conservation Plan CP-10005-01
Alice Ferguson Foundation (Hard Bargain Farm)

The Zoning staff has completed the review of the subject application and appropriate referrals. The following evaluation and findings lead to a recommendation of APPROVAL with conditions, as described in the Recommendation section of this technical staff report.

EVALUATION CRITERIA

This revision of a special exception site plan conservation plan was reviewed and evaluated for conformance with the following criteria:

- a. The requirements of the Chesapeake Bay Critical Area (CBCA) Resource Conservation Overlay (R-C-O) Zone of the Prince George's County Zoning Ordinance;
- b. The requirements of the Open Space (O-S) Zone and the site design guidelines of the Prince George's County Zoning Ordinance;
- c. The requirements of Zoning Ordinance for an amendment to an approved special exception site plan
- d. Referral comments.

FINDINGS

Based upon the analysis of the subject application, the Zoning staff recommends the following findings:

- A. Location:** The subject property is located on Tax Map 140 in Grid F4 and consists of two parcels, Part of Parcels 7 and 34, totaling 18 acres in the Open Space (O-S) Zone, of which 4.41 acres are also located within the Chesapeake Bay Critical Area (CBCA) Conservation Overlay (R-C-O) Zone. The site is in Planning Area 83, Council District 9. More specifically, the subject property is located on the northeast and southwest sides of Bryan Point Road, approximately 2.4 miles west of Farmington Road.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	O-S/R-C-O	O-S/R-C-O
Use(s)	Eleemosynary or Philanthropic institution	Eleemosynary or Philanthropic institution
Acreage	18.00	18.00
Square Footage/GFA	17,826	5,586*

Note: *The proposed 60 by 40 foot open-air pavilion is not included in the GFA.

- C. History:** Special Exception SE-2711 for a “Private Educational Institution” was approved for the site on July 15, 1974. On February 28, 1985, a minor revision to SE-2711 was approved for an addition to one of the buildings and a deck. That use is no longer found in the Prince George’s County Zoning Ordinance; the eleemosynary or philanthropic institution use being sought most nearly corresponds to the original. The subject property was retained in the O-S Zone in the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan and SMA), approved by Prince George’s County Council Resolution CR-61-2009 on September 9, 2009.

SE-4663 was approved for the site on July 26, 2012 (PGCPB Resolution No. 12-84) for a new interpretive and overnight accommodations, support facilities (including a wetland boardwalk), and to provide additional parking on the site.

Conservation Plan CP-10005, for expansion of the existing educational facility, was approved by the Prince George’s County Planning Board on July 26, 2012 (PGCPB Resolution No. 12-83).

- D. Master Plan and General Plan Recommendations:** This application is consistent with the 2014 *Plan Prince George’s 2035 General Plan* (Plan 2035), which designates this application in a Rural and Agricultural Area policy area. The vision for the Rural and Agricultural Areas includes retaining low-density residential, supporting park and open space land uses, and focusing new investment on maintaining existing infrastructure.

The Subregion 5 Master Plan and SMA recommends a rural use for the subject property, together with most of the surrounding area.

- E. Request:** The proposal is for the revision of a Special Exception Site Plan and CBCA conservation plan to remove a previously approved 12,240-square-foot educational building (known as the Moss Building) and replace it with a 60 by 40 foot open-air pavilion and associated parking modifications.

- F. Neighborhood and Surrounding Uses:** The neighborhood is sparsely developed with widely scattered single-family dwellings in the Moyaone Reserve, woodland and federal park land. The general neighborhood boundaries are:

- Northwest:** Piscataway Creek and the Potomac River
- East and South:** A network of roads including Farmington, Marshall Hall, New Marshall Hall, and Mockley Point Roads.
- Southwest:** The Charles County boundary.

This is the same neighborhood as established for Special Exception SE-4633.

The property is surrounded by the following uses:

- North:** Piscataway Park, in the Reserved Open Space Zone.
- East:** Privately owned, undeveloped land in the O-S Zone.
- South:** Bryan Point Road, a winding two-lane road, additional undeveloped land owned by the applicant, and single-family residences on large lots in the O-S Zone.
- West:** The Wagner Community Center and Pool (owned by the Moyaone Association) in the O-S Zone.

G. Zone Standards: The proposal is within the applicable development requirements and regulations set forth in Section 5B-115, of the CBCA Ordinance, for the Resource Conservation Overlay (R-C-O) Zone, Section 27-425 for the O-S Zone requirements, and Section 27-548.15 for regulations in the R-C-O Zone of the Zoning Ordinance. Section 27-441(b), Uses Permitted in Residential Zones, of the Zoning Ordinance, indicates that an eleemosynary/philanthropic institution is a permitted use by special exception in the O-S Zone.

H. Design Requirements:

Signage—There is no change to signage associated with this application.

Parking Regulations—The proposed site plan shows the required number of parking spaces for the site.

Prince George’s County Landscape Manual Requirements—The subject application is not subject to the 2010 *Prince George’s County Landscape Manual* (Landscape Manual) because of the limited improvements with no increase in gross floor area or impervious areas for parking and/or loading.

Tree Canopy Coverage Ordinance—This application is not subject to the Tree Canopy Coverage Ordinance, as it does not propose disturbance of 5,000 square feet or greater.

I. Required Findings: The applicant provided responses through a statement of justification dated January 27, 2021, incorporated herein by reference. Section 27-317(a) and (b) of the Zoning Ordinance states that:

(a) A Special Exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**

The purposes of the Zoning Ordinance are set forth in Section 27-102. This application fulfills the purposes, as follows:

Section 27-102. Purposes.

- (1) To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;**

An eleemosynary/philanthropic institution was determined to be in compliance with this finding through Prince George's County District Council approval SE-4663. This minor revision will not impact this finding.

- (2) To implement the General Plan, Area Master Plans, and Functional Master Plans;**

The subject property is located within the Rural and Agricultural Growth Policy Area as established by Plan 2035, which was formerly referred to as the "Rural Tier." The Subregion 5 Master Plan and SMA was approved prior to Plan 2035 and refers to the property as being located within the Rural Tier. As stated on page 9 of the Subregion 5 Master Plan and SMA: "The vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, the preservation of rural character and the conservation of significant scenic vistas." An eleemosynary institution that promotes the preservation of agricultural practices through education and conservation efforts implements the general and the master plan for this area.

- (3) To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;**

This request is consistent with this purpose. The property lacks infrastructure for the conservation, creation, or expansion of residential communities, and is instead improved and used to promote and encourage agricultural and ecological uses.

- (4) To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;**

This revision to the approved special exception is consistent with this purpose. It furthers the education of the agricultural uses and ecological efforts in an area of Prince George's County designated for agricultural and rural uses.

(5) To provide adequate light, air, and privacy;

As the proposed smaller building will now be an open-air pavilion, there will be a greater amount of light and air in this structure than there would have been in the previously approved building.

(6) To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development.

Nearby property owners were found not to be impacted by SE-4663. This revision will not impact this finding.

(7) To protect the County from fire, flood, panic, and other dangers;

This purpose was found to be satisfied in the original approval, and the proposed changes will not alter or disrupt that determination.

(8) To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;

No housing is being proposed with this revision.

(9) To encourage economic development activities that provide desirable employment and a broad, protected tax base;

(10) To prevent the overcrowding of land;

(11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;

(12) To insure the social and economic stability of all parts of the County;

(13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;

(14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and

(15) To protect and conserve the agricultural industry and natural resources.

An eleemosynary/philanthropic institution was determined to be in compliance with these findings through District Council approval of SE-4663. This minor revision proposes a smaller structure in the same area as the prior approved development and will not impact, but further the purposes of Findings (9) through (15).

Section 27-317. Required Finding. (Continued)

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.

With approval of the revision to CP-10005, submitted in conjunction with this application, the proposed revision will be in conformance with all applicable requirements and regulations of the Zoning Ordinance.

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.

(4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

An eleemosynary or philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision, which will result in a smaller building and a smaller amount of impervious surface, will not impact these findings.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

A tree conservation plan was not submitted with this application. An eleemosynary or philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).

While the CBCA has been changed since the original approval to now encompass the Moss Building and its surrounding area (as reflected in the proposed revision to CP-10005), the proposed smaller building and reduced amount of impervious area will be consistent with this purpose.

(b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:

- (1) Where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or**
- (2) Where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.**

Even with the expansion of the CBCA boundaries, this revision proposes lot coverage below the 15 percent maximum permitted in the CBCA. This proposal will also reduce the total amount of lot coverage approved for construction in the CBCA because it proposes a decrease of 12,240 square feet of gross floor area, and a 7,367-square-foot reduction in impervious cover within the previously approved limits of disturbance (LOD), as previously approved for the site in SE-4663. The 12,240 square foot Moss Building was approved in SE-4663, and at the time of approval, the Moss Building was located outside the delineated limits of the CBCA. However, the CBCA boundaries expanded after 2013 through the use of improved mapping techniques, which now encompasses the Moss building. By proposing to remove the 12,240-square-foot Moss Building and replace it with the 60 by 40 foot open-air pavilion, there will be a reduction of impervious area in the CBCA. Furthermore, when also calculating the fewer number of parking spaces to serve the smaller building, along with the additional reduction in vehicular and pedestrian access to the building, there will be a total reduction of 7,367 square feet of impervious area within the LOD from that which was originally approved in 2013. Since SE-4663 remains valid and this special exception was approved through (and thus allowed by) this Subtitle, and granting this request will not result in a net increase in the existing lot coverage in the CBCA, this request for a revision to SE-4663 may be granted.

Subdivision 10 – Amendments of Approved Special Exceptions

Section 27-325(b) – Minor Changes, Planning Board.

- (1) The Planning Board is authorized to approve the following minor changes:**
 - (A) An increase of no more than fifteen percent (15%) in the gross floor area of a building;**
 - (B) An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;**
 - (C) The redesign of parking or loading areas; or**
 - (D) The redesign of a landscape plan.**

- (2) **The Planning Board is further authorized to approve the minor changes described in (d) and later subsections below.**
- (3) **In reviewing proposed minor changes, the Board shall follow the procedures in (a)above.**

Section 27-325(j) – Changes of site plans for uses within a Chesapeake Bay Critical Area Overlay Zone.

Changes of a site plan for an approved use within a Chesapeake Bay Critical Area Overlay Zone may be approved by the Planning Board, if such changes are necessary in order to conform to the approved Conservation Plan and Conservation Agreement. The Planning Board shall not approve any change previously proposed and specifically disapproved as part of the original Special Exception.

As set forth above, this request will remove the previously approved 12,240-square-foot Moss Building and replace it with a 60 by 40 foot open-air pavilion. In addition, the smaller open-air pavilion will require 10 fewer off-street parking spaces than the Moss Building. Finally, certain modifications to vehicular and pedestrian access are also proposed to accommodate the smaller structure. In sum, these revisions involve a reduction of 12,240 square feet of gross floor area, and a reduction of 7,367 square feet of impervious surface, which is far below the maximum allowable for a minor change, which allows up to 15 percent increase in gross floor area of a building or land area covered by a structure other than a building. Moreover, this request is being filed, in conjunction with a revision to an approved conservation plan, and this revision is necessary to conform with the conservation plan.

- J. Referrals:** The following are a summary of comments generated from referrals by internal divisions and external agencies. Said referrals are incorporated by reference herein. Any outstanding plan revisions that remain are included as conditions of approval.

Community Planning—There are no general plan or master plan issues raised by this application. (Irminger to Sievers, December 17, 2020)

Historic Preservation—This project will not affect any Prince George’s County historic sites or resources. The significant portion of the property in this proposal will not impact the two archeological sites, 18PR962 and 18PR963. No additional archeological investigations are recommended. (Stabler to Sievers, December 23, 2020)

Parks—There are no impacts on existing parklands. (Holley to Sievers, February 2, 2021)

Transportation—The pedestrian and bicycle access and circulation for this plan is acceptable, consistent with the purpose pursuant to Section 27-548, and meets the findings required by Section 27-317 for a conservation plan and revision to special exception plan for multimodal transportation purpose, and conforms to the prior development approvals and the Subregion 5 Master Plan and SMA, subject to a set of conditions found in the conclusion below. (Smith to Sievers January 27, 2021)

Environmental—No revisions are required to the conservation plan, Natural Resources Inventory Plan, or stormwater management plan. All proposed changes are acceptable with no conditions. (Rea to Sievers January 27, 2021)

Urban Design—The application is in conformance with the requirements of the Zoning Ordinance and the CBCA Ordinance. It is also in conformance with the conditions of the previously approved special exception and CBCA Conservation Plan. Conformance with the requirements of the Landscape Manual were previously determined with prior approvals. A reduction in the quantity of plant units to be provided is shown with the amendment; however, the plantings to be removed are not within a required buffer or landscape yard. The removal of the plant units, as shown on the plans and updated landscape schedule for Section 4.9, Sustainable Landscape Requirements, is acceptable. The overall project remains in conformance with the requirements of the Landscape Manual. (Bossi to Sievers, February 1, 2021)

- K. Determinations:** The criteria for granting the revisions to Special Exception ROSP-4663-02 and CP-10005-01 are met. The subject property currently serves the community as an eleemosynary philanthropic institution related to agricultural and ecological education and is compatible with all of the adjacent uses. Therefore, the use will not adversely affect the health, safety, or welfare of residents or workers in the area, or be detrimental to the use or development of adjacent properties or the general neighborhood, as no increases into the interior gross floor area are being proposed and the use will continue to function as an eleemosynary/philanthropic institution, as it has since its initial construction in 1974. Moreover, staff finds that the proposed minor revisions are so limited in scope and nature that they will have no appreciable impact on either adjacent properties or the previously approved site plan.

CONCLUSION

Based on the preceding analysis and findings, staff recommends APPROVAL of Revision of Site Plan Application ROSP-4663-02 and Conservation Plan CP-10005-01, subject to the following conditions:

1. Prior to certification of the conservation plan or revision of special exception plan, the applicant, or the applicant's heirs, successors, and/or assignees shall revise the plans to provide:
 - a. Dimensions of all drive aisles and sidewalk.
 - b. Locations and details of all bicycle racks.
2. The applicant, and the applicant's heirs, successors, and/or assignees shall provide the following facilities, prior to any building permit, and depict the following facilities on the site plan, prior to its certification:
 - a. Shared lane pavement markings and bikeway signage, along the subject property frontage of Bryan Point Road, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement, with written correspondence.

ITEM: 6 & 7

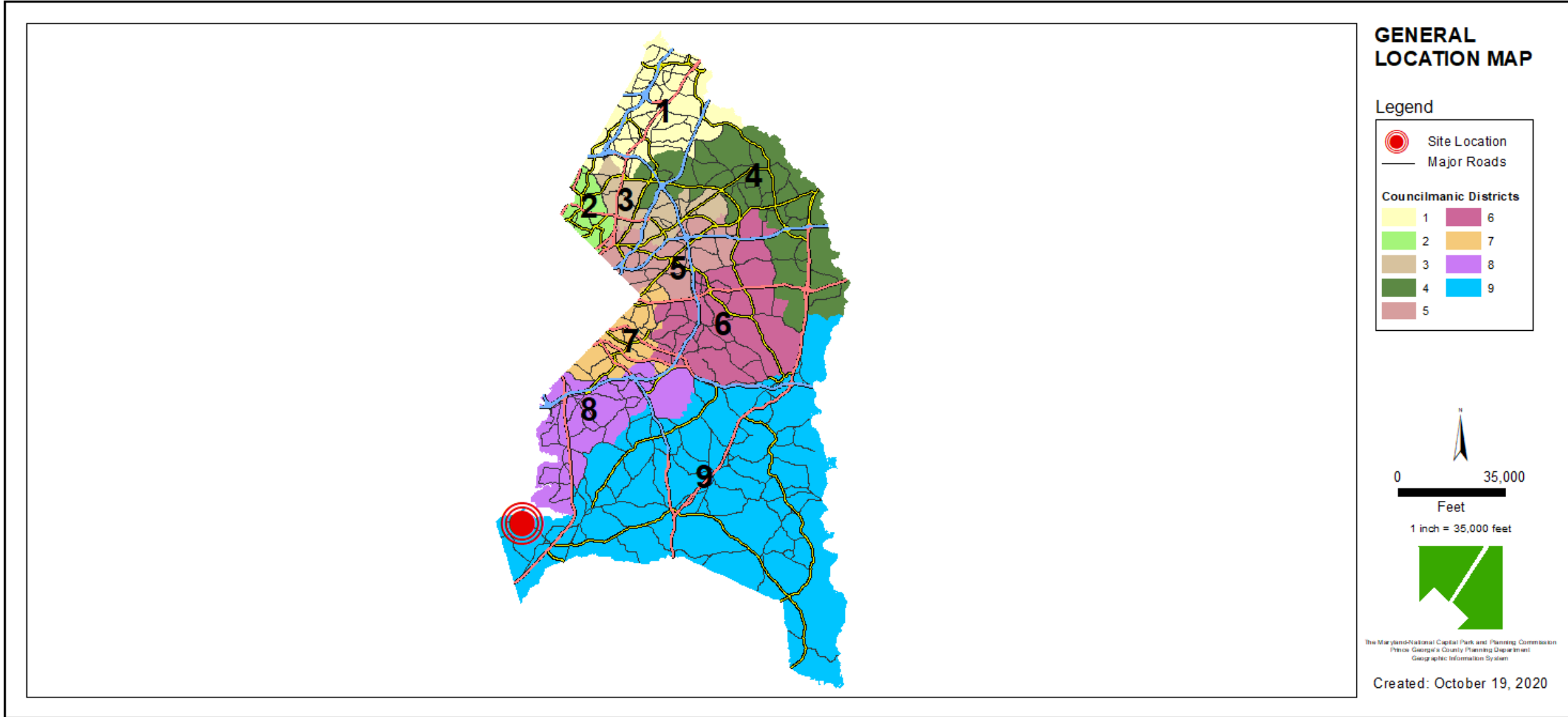
CASE: ROSP-4663-02 & CP-10005-01

**ALICE FERGUSON FOUNDATION
HARD BARGAIN FARM
AMENDMENT TO ELEEMOSYNARY INSTITUTION**

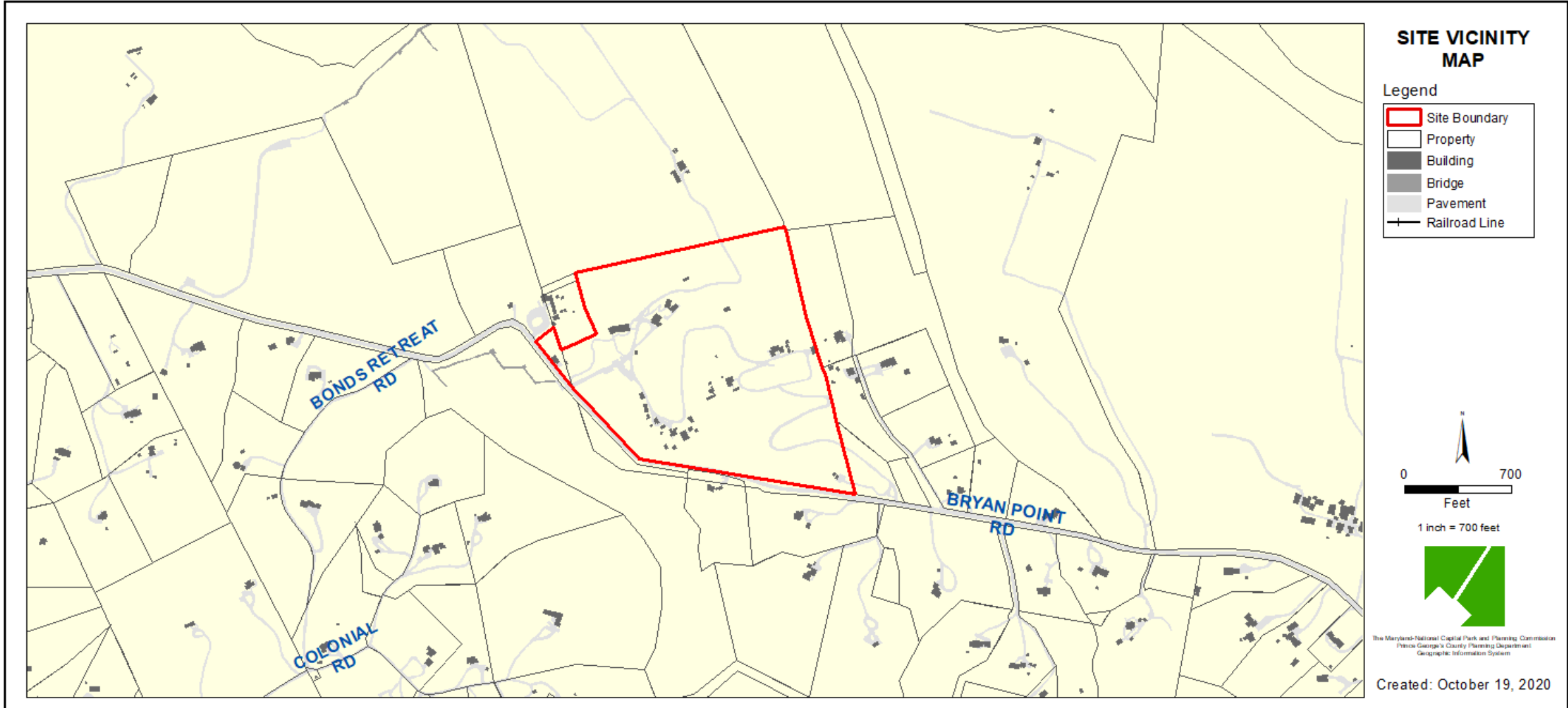
THE PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT



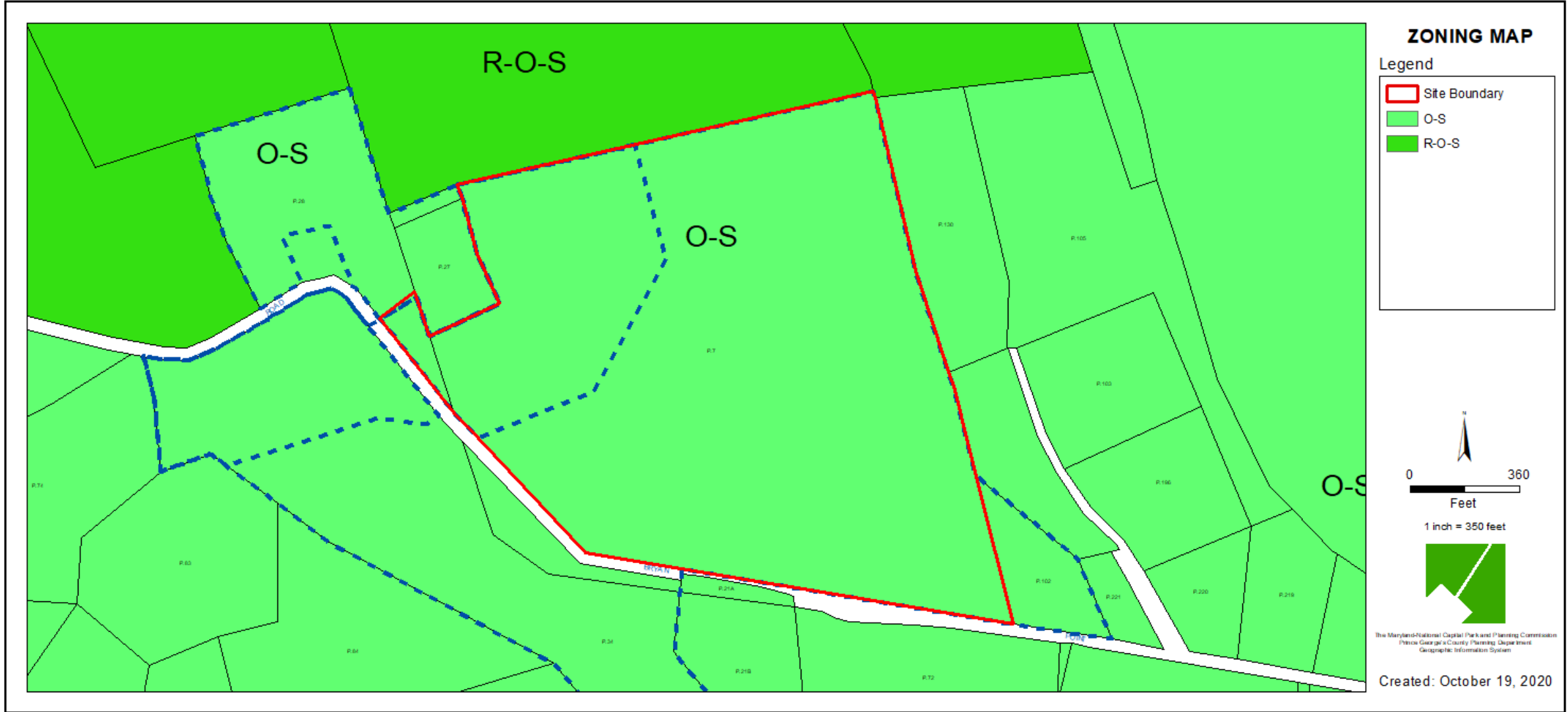
GENERAL LOCATION MAP



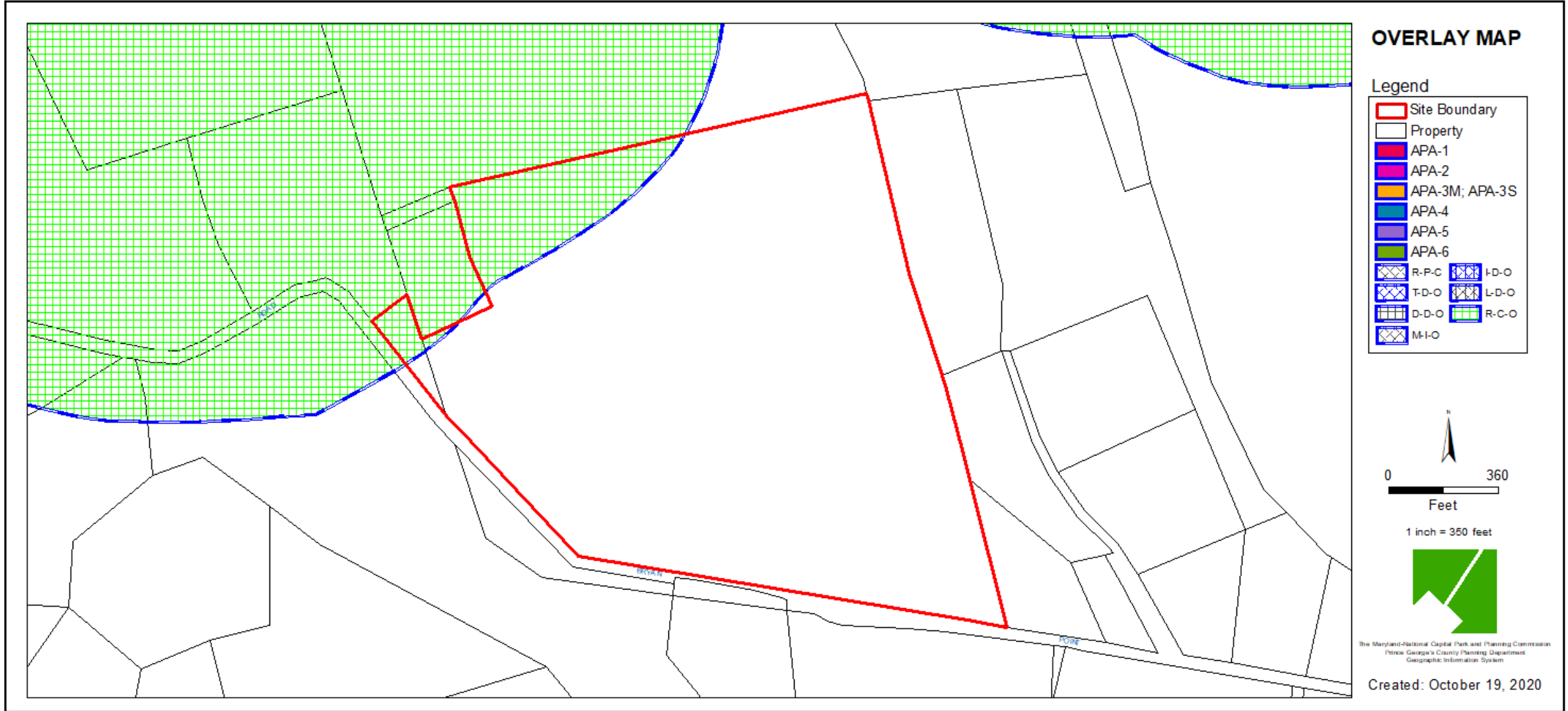
SITE VICINITY



ZONING MAP



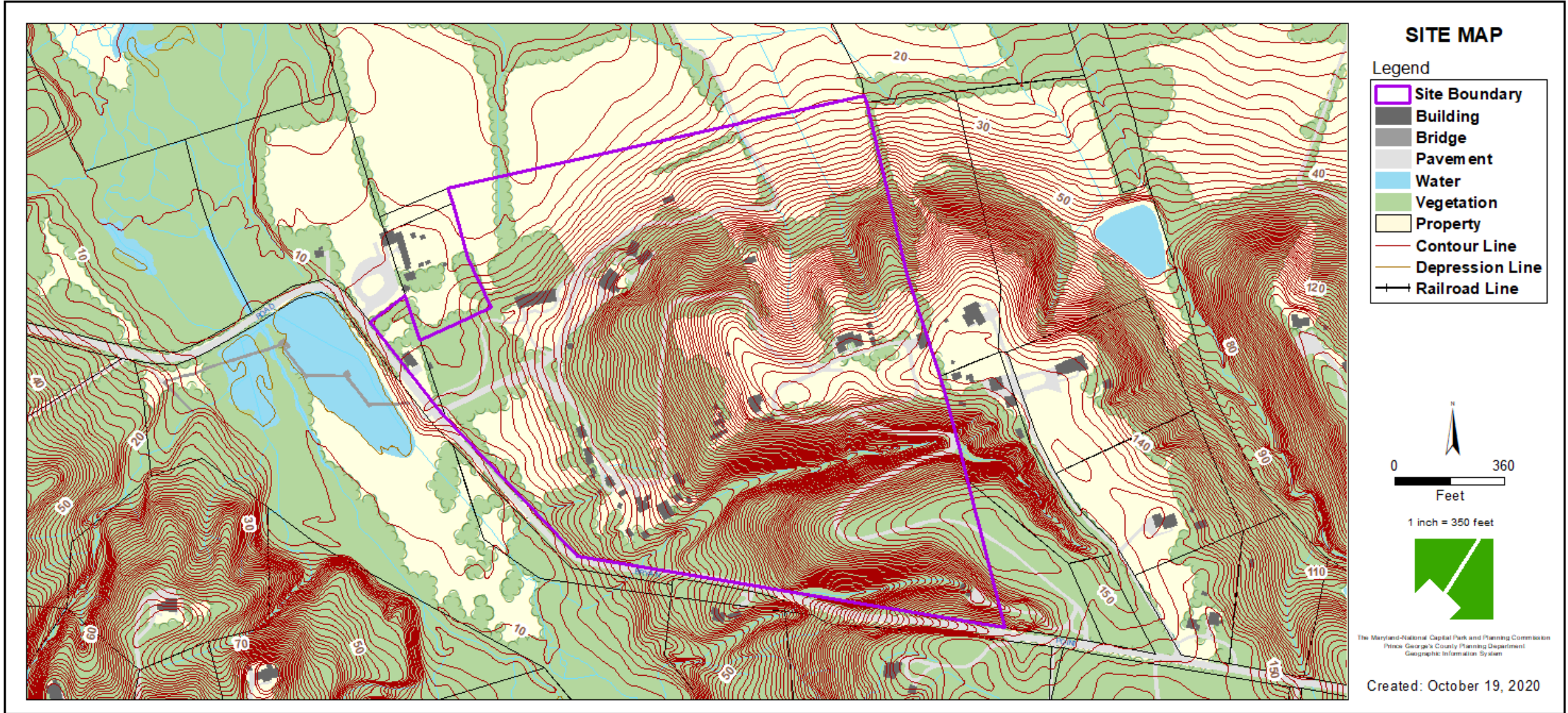
OVERLAY MAP



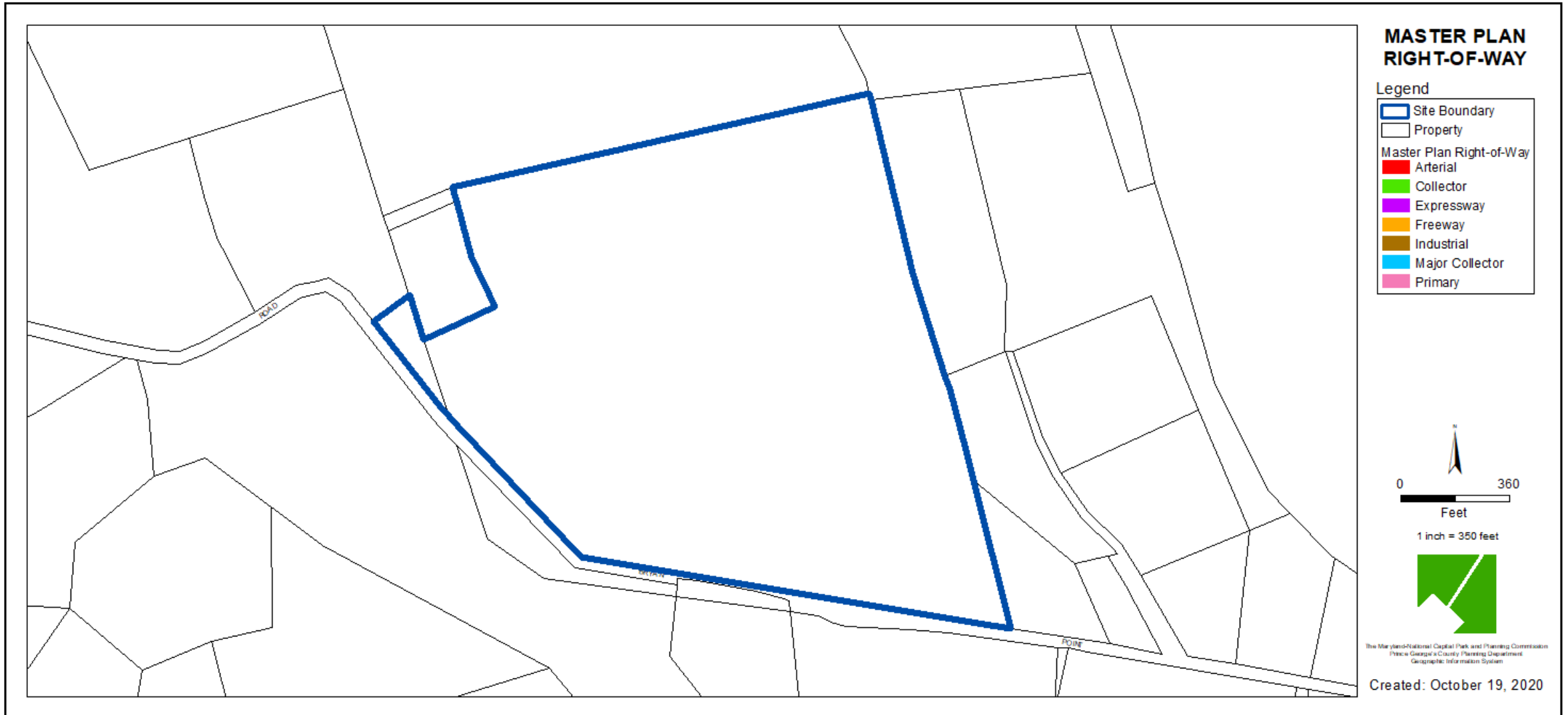
AERIAL MAP



SITE MAP



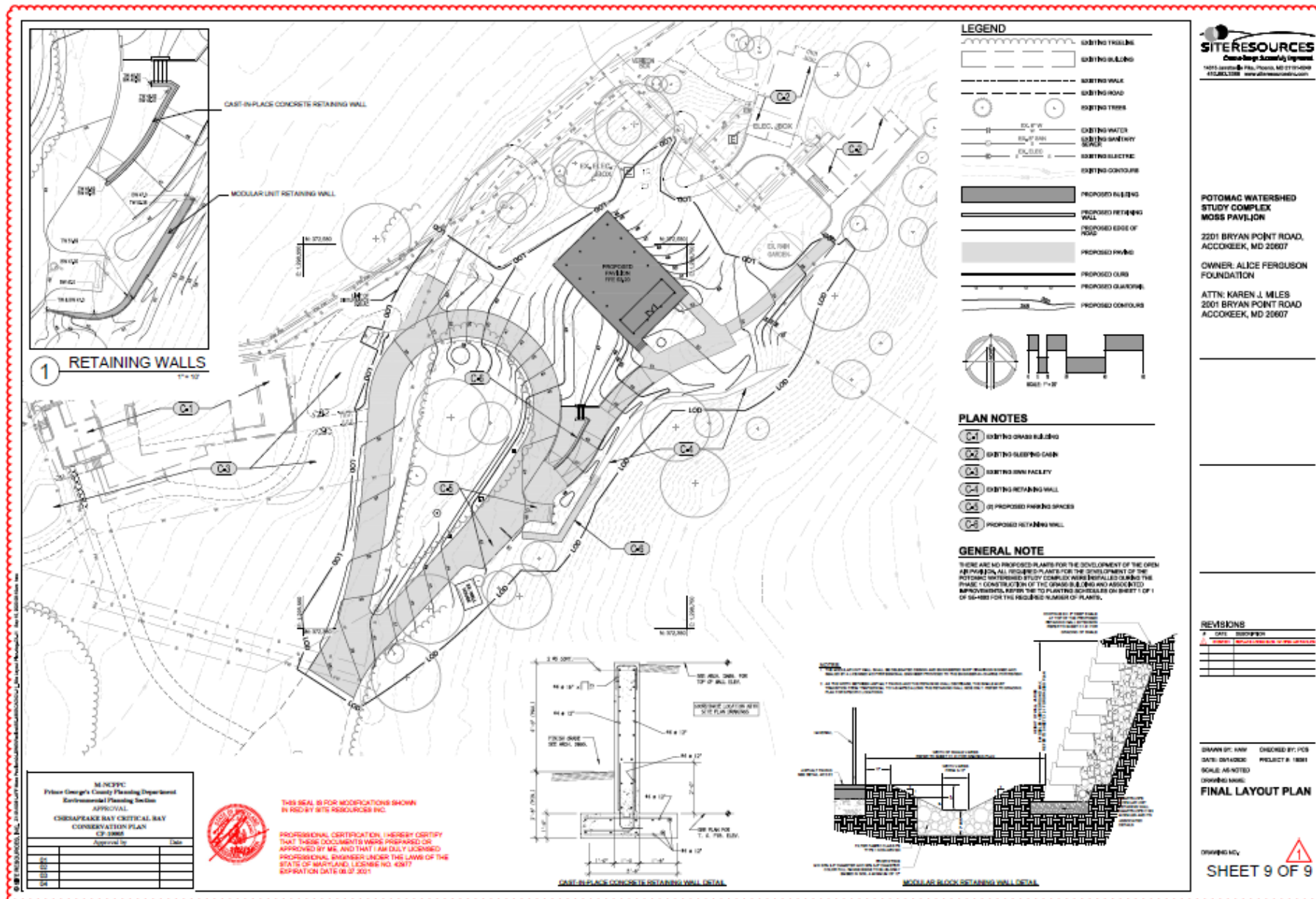
MASTER PLAN RIGHT-OF-WAY MAP



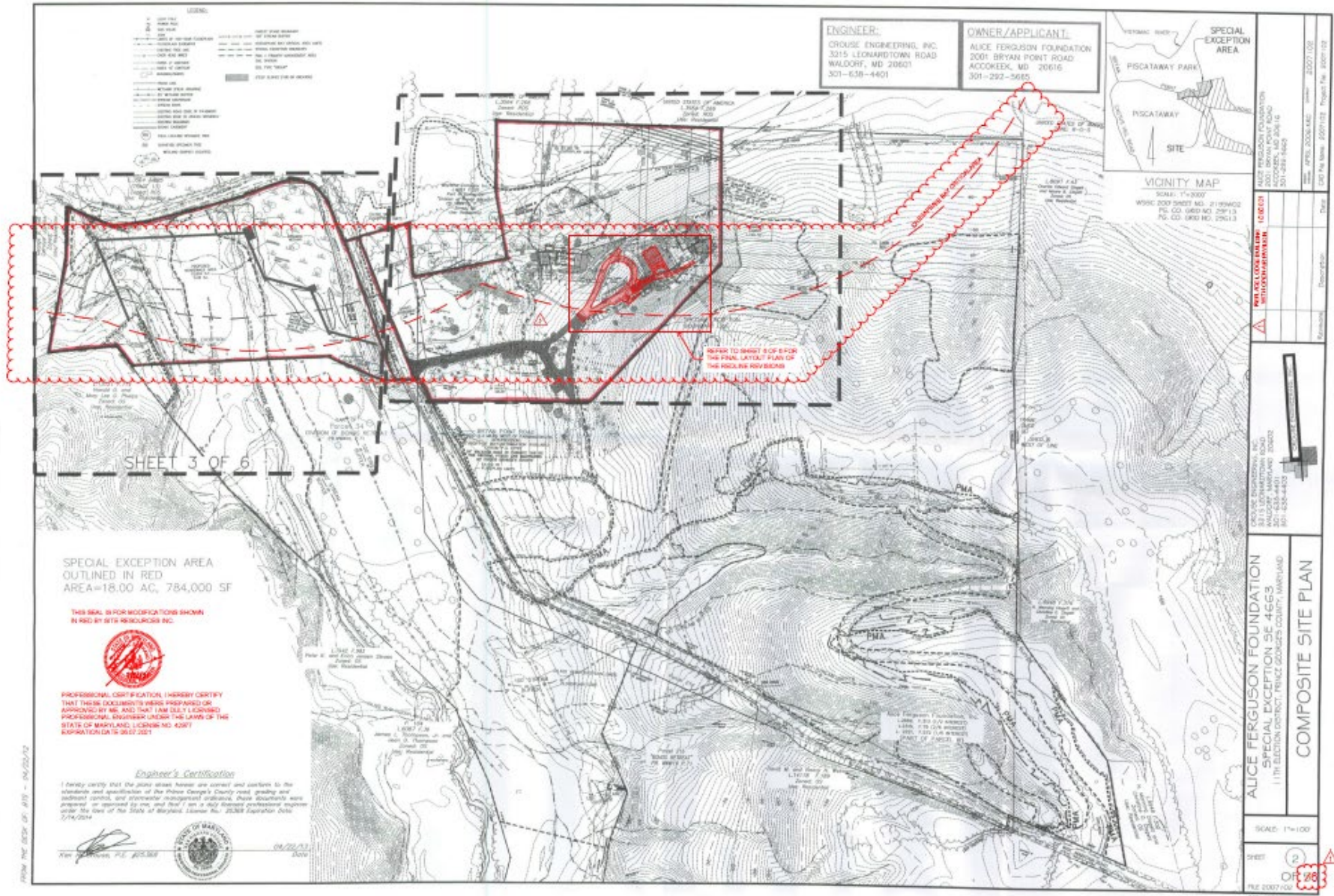
BIRD'S-EYE VIEW WITH APPROXIMATE SITE BOUNDARY OUTLINED



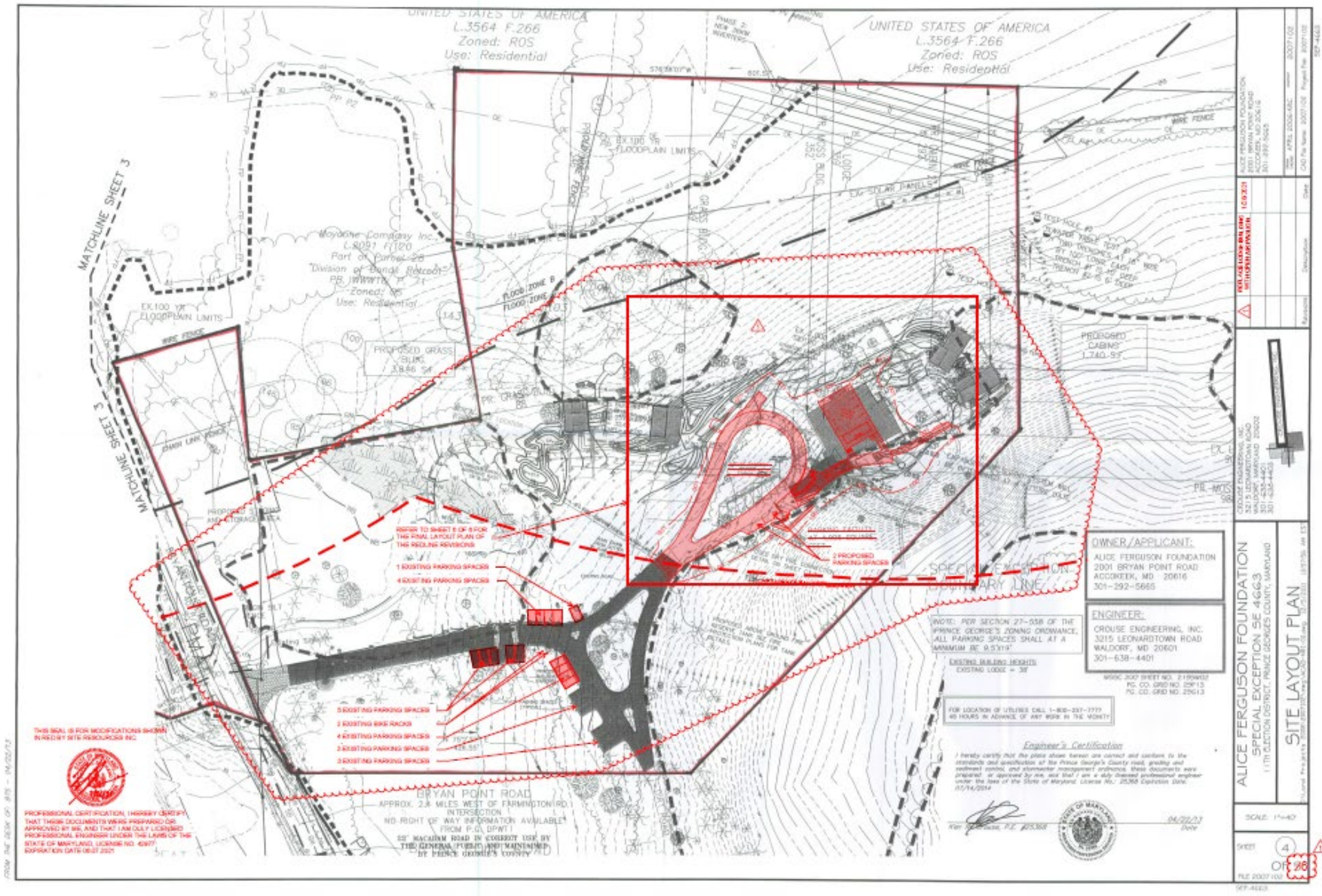
FINAL LAYOUT PLAN



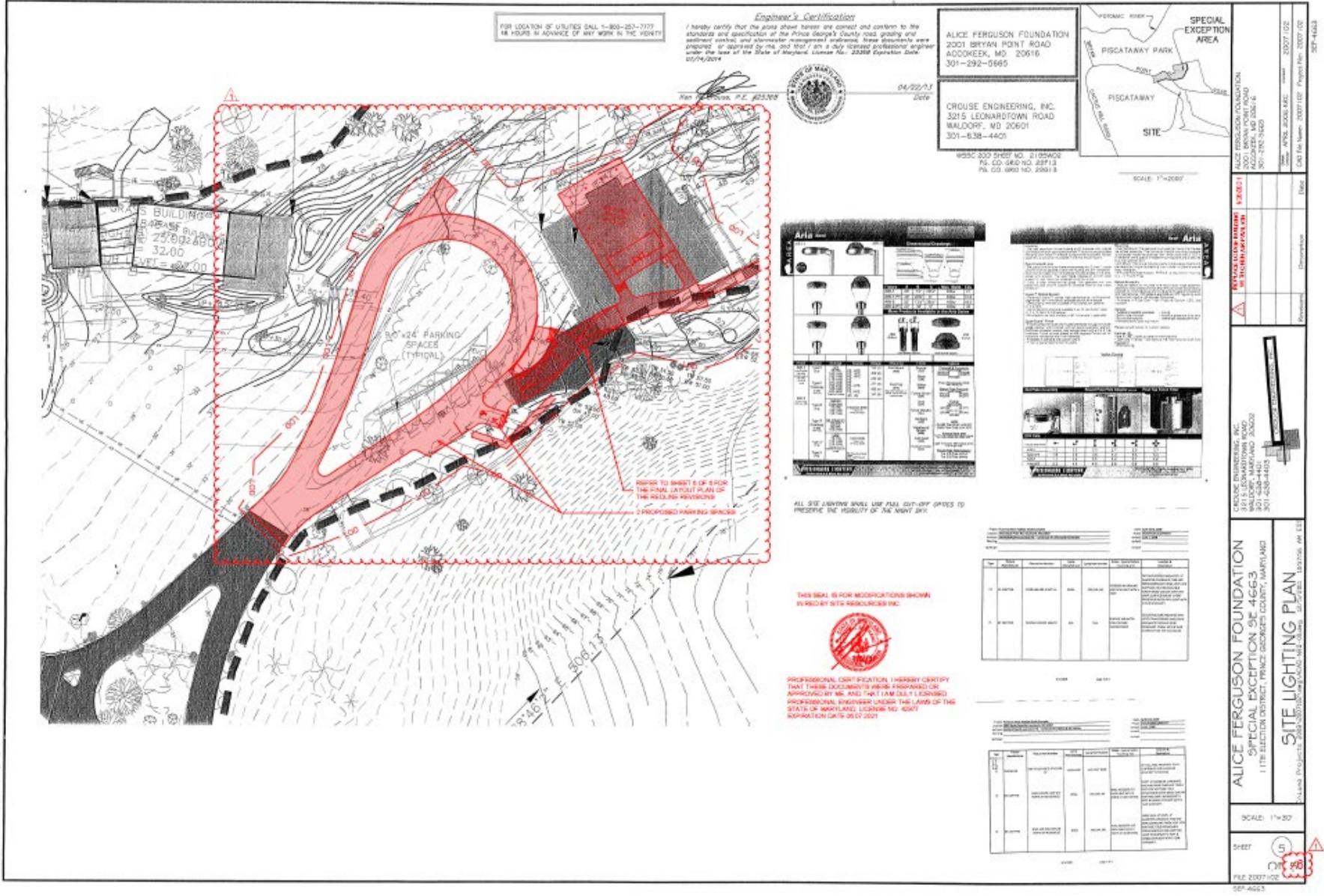
ROSP COMPOSITE SITE PLAN



ROSP SITE LAYOUT PLAN



ROSP SITE LIGHTING PLAN



IN RE: **ROSP-4663-02; CP-10005-01**

APPLICANT: **ALICE FERGUSON FOUNDATION**

OWNER: **ALICE FERGUSON FOUNDATION**

AGENT/CORRESPONDENT: Lawrence N. Taub, Esquire
Nathaniel Forman, Esquire
O'Malley, Miles, Nylen & Gilmore, P.A.
7850 Walker Drive, Suite 310
Greenbelt, MD 20770

AMENDED STATEMENT OF JUSTIFICATION

The Applicant hereby requests a revision to Conservation Plan No. CP-10005 (“CP-10005”) and Special Exception No. 4663 (“SE-4663”) to remove the previously approved 12,240 square foot educational building/lodge known as the Moss Potomac Watershed Study Center (“Moss Building”) and replace it with a 2,400 square foot open air pavilion. Along with replacing the Moss Building with an open-air pavilion, the Applicant proposes certain revisions to the number of parking spaces, as well as vehicular and pedestrian access and configuration stemming from this change. This request involves a portion of an 18-acre property of a larger 118-acre site located on the north side of Bryan Point Road, approximately 2.4 miles west of Farmington Road in Accokeek, Maryland in the O-S and R-C-O Chesapeake Bay Critical Area Overlay (“CBCA”) Zone (“Subject Property” or “Property”). This request is being filed pursuant to § 5B-116 of the Prince George’s County Code (“County Code”) for a major revision to Conservation Plan No. CP-10005; and also pursuant to § 27-325 of the Prince George’s County Zoning Ordinance (“Zoning Ordinance”), a minor revision to Special Exception No. 4663.

I. BACKGROUND

This use dates back to 1974 with the approval of Special Exception No. SE-2711 when it was referred to as a “Private Educational Institution.” However, SE-2711 was superseded by SE-4663 in 2013, when the Subject Property was reclassified as an “Eleemosynary and Philanthropic Institution.” In that application, the Zoning Hearing Examiner recommended approval subject to certain conditions, and that decision of the ZHE became final after no appeal from that decision was filed with the District Council, and the District Council did not elect to review the case. Conservation Plan No. CP-10005 had already been approved for the Property in 2012 by the Prince George’s County Planning Board through Resolution No. 12-83, and the Planning Board had also recommended approval of Special Exception SE-4663 through Resolution No. 12-84. In addition to updating the use classification, the Applicant was granted permission to replace older buildings with newer ones, and construct additional facilities better suited to operating an environmental education center and a working farm for school-age children. In 2015, the Planning Director approved a minor revision of the special exception site plan (ROSP-4666-01) for minor modifications to infrastructure improvements and stormwater management facilities.

As described above, one of the improvements approved through SE-4663 was the Moss Building, a dedicated space for classrooms, meeting rooms, teaching labs for environmental education, a

commercial kitchen, a staff office, and both screened-in and open decks. After that was approved, and the Foundation solicited construction bids for that building, it became evident that the expected construction costs would be far more expensive than originally anticipated. For that reason, it was decided that an economically viable alternative to the Moss Building would be required, and that alternative became the open-air pavilion that is the subject of this request.

The open-air pavilion will be located within the footprint of the previously approved Moss Building, and is proposed to function similarly, albeit on a smaller scale, commensurate with its reduced size. The pavilion will still provide space for educational programs and events, but other spaces formerly proposed for the Moss Building will be removed (e.g., overnight accommodations). The open-air pavilion will decrease the gross floor area by 9,840 sq. ft., while the smaller footprint provided by the pavilion results in a decrease of 3,720 sq. ft. in impervious cover. Additionally, the significantly smaller open-air pavilion will require fewer off-street parking spaces, specifically three (3) instead of the original thirteen (13) parking spaces required for the Moss Building. Overall, fifteen (15) parking spaces are required, and the Applicant will be providing twenty-two (22) parking spaces, with one (1) of these spaces being handicap accessible. This revision will also remove extraneous plantings that were approved through the original special exception to lower the costs of construction. Nevertheless, all plantings and landscaping will conform with the requirements of the Prince George's County Landscape Manual. Finally, certain modifications to vehicular and pedestrian access are also proposed to accommodate the smaller structure. In all, the reduction in parking and reconfiguration of vehicular and pedestrian access will result in approximately 3,647 fewer square feet of impervious surface. As a result of these changes, there will be a total net reduction of 7,367 sq. ft. in impervious cover within the Limits of Disturbance ("LOD") of the development, from that which was approved through SE-4663 in 2013.

II. CONFORMANCE WITH THE ZONING ORDINANCE

A. CONSERVATION PLAN

Sec. 5B-116 of the County Code allows revisions to approved Conservation Plans for development within the Chesapeake Bay Critical Area ("CBCA"). Conservation Plan No. CP-10005 was approved in January 2013, but only for a portion of the 18-acre Property. At the time of its approval in 2013, the Moss Building was not within the delineated CBCA, but since that time, the limits of the CBCA expanded through improved mapping techniques. These techniques resulted in the CBCA limits extending further south, now encompassing an additional 12 acres of the Subject Property. Therefore, while the location of the Moss Building has not changed since its original approval in 2013, it is now located within these additional 12 acres of CBCA delineation.

B. SPECIAL EXCEPTION

The present request is a minor revision to SE-4663 to reduce the size and configuration of the Moss Building as proposed in SE-4663 (and the 01 Revision), to now become an open-air pavilion that will be 9,840 square feet smaller than the original building, while also reducing the amount of impervious cover (building footprint and paving surfaces) by 7,367 sq. ft within the LOD compared to the approved special exception plans in case SE-4663 that were approved in 2013.

This request thus meets the requirements of § 27-325 of the Zoning Ordinance, which authorizes either the Planning Director or the Planning Board to approve minor changes to site plans for approved Special Exceptions. For the reasons stated below, this request qualifies as a minor change, but because this request involves changes to a property within the limits of the CBCA, only the Planning Board is authorized to approve this request.

§ 27-325(b) Minor Changes, Planning Board.

- (b) (1) The Planning Board is authorized to approve the following minor changes:**
- (A) An increase of no more than fifteen percent (15%) in the gross floor area of a building;**
 - (B) An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;**
 - (C) The redesign of parking or loading areas; or**
 - (D) The redesign of a landscape plan.**
- (2) The Planning Board is further authorized to approve the minor changes described in (d) and later subsections below.**
- (3) In reviewing proposed minor changes, the Board shall follow the procedures in (a) above.**

...

§ 27-325(j) Changes of site plans for uses within a Chesapeake Bay Critical Area Overlay Zone.

Changes of a site plan for an approved use within a Chesapeake Bay Critical Area Overlay Zone may be approved by the Planning Board, if such changes are necessary in order to conform to the approved Conservation Plan and Conservation Agreement. The Planning Board shall not approve any change previously proposed and specifically disapproved as part of the original Special Exception.

RESPONSE: As set forth above, this request will remove the previously approved 12,240 square foot Moss Building and replace it with a 2,400 square foot open air pavilion. Additionally, the significantly smaller open-air pavilion will require fewer ten (10) fewer off-street parking spaces than the Moss Building. Furthermore, extraneous plantings that were proposed and approved via the original special exception are no longer proposed onsite. Finally, certain modifications to vehicular and pedestrian access are also proposed to accommodate the smaller structure. In sum, these revisions involve a reduction of 9,840 sq. ft. of gross floor area, and a reduction of 7,367 sq. ft. of impervious surface, which is obviously far below the maximum allowable for a minor change, being 15% increase in gross floor area of a building or land area covered by a structure other than a building. Moreover, this request is being filed in conjunction with a revision to an approved Conservation Plan, and this revision is necessary to conform with the Conservation Plan.

§ 27-317. Required Findings.

This request must demonstrate conformance with the required findings for special exceptions under § 27-317 of the Zoning Ordinance. For the reasons discussed below, this request satisfies the required findings for all Special Exceptions.

(a) A Special Exception may be approved if:

(1) The Proposed use and site plan are in harmony with the purposes of this Subtitle;

RESPONSE: The purposes of the Zoning Ordinance are set forth in § 27-102. This application fulfills the purposes as follows:

§27-102. Purposes.

(1) To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

(2) To implement the General Plan, Area Master Plans, and Functional Master Plans;

RESPONSE: The Subject Property is located within the Rural and Agricultural Growth Policy Area as established by *Plan Prince George's 2035* ("Plan 2035"), which was formerly referred to as the "Rural Tier." *The Subregion 5 Master Plan and Sectional Map Amendment* ("Subregion 5 Plan") was approved prior to Plan 2035 and refers to the Property as being located within the Rural Tier. As stated on page 9 of the Subregion 5 Plan: "The vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, the preservation of rural character and the conservation of significant scenic vistas." An eleemosynary institution that promotes the preservation of agricultural practices through education and conservation efforts implements the General and Master Plan for this area.

(3) To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;

RESPONSE: This request is consistent with this purpose. The Property lacks infrastructure for the conservation, creation or expansion of residential communities, and is instead improved and used to promote, and encourage, agricultural and ecological uses.

(4) To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;

RESPONSE: This revision to the approved special exception is consistent with this purpose. It furthers the education of agricultural uses and ecological efforts in an area of Prince George's County designated for agricultural and rural uses.

- (5) To provide adequate light, air, and privacy;

RESPONSE: As the proposed smaller building will now be an open-air pavilion, there will obviously be a greater amount of light and air in this structure than there would have been in the previously-approved building.

- (6) To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;

RESPONSE: Nearby property owners were found not to be impacted by SE-4663. This revision will not impact this finding.

- (7) To protect the County from fire, flood, panic, and other dangers;

RESPONSE: This purpose was found to be satisfied in the original approval, and the proposed changes will not alter or disrupt that determination.

- (8) To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;

RESPONSE: No housing is being proposed with this revision.

- (9) To encourage economic development activities that provide desirable employment and a broad, protected tax base;

RESPONSE: This purpose was found to be satisfied in the original approval, and this minor revision will not impact this finding.

- (10) To prevent the overcrowding of land;

RESPONSE: As this application proposes a significantly smaller building than that which was originally approved, this purpose is obviously advanced through this minor revision.

- (11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;

RESPONSE: This minor revision will have no impact on this purpose, which was found to have been satisfied in the original approval.

- (12) To insure the social and economic stability of all parts of the County;

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

- (13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

- (14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

- (15) To protect and conserve the agricultural industry and natural resources.

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

§ 27-317. Required Findings. (cont.)

- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;”

RESPONSE: With the approval of the revision to CP-10005 submitted in conjunction with this request, the proposed revision will be in conformance with all applicable requirements and regulations of the Zoning Ordinance.

- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan,

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

- (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area,

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision, which will result in a smaller building and a smaller amount of impervious surface, will not impact this finding.

- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood;

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision, which will result in a smaller building and a reduced amount of impervious surface, will not impact this finding.

- (6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

RESPONSE: An eleemosynary/philanthropic institution was determined to be in compliance with this finding through District Council approval of SE-4663. This minor revision will not impact this finding.

- (7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

RESPONSE: While the CBCA has been changed since the original approval to now encompass the Moss Building and its surrounding area (as reflected in the proposed revision to Conservation Plan CP-10005), the smaller building proposed and reduced amount of impervious area will be consistent with this purpose.

- (b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:
 - (1) Where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or
 - (2) Where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.”

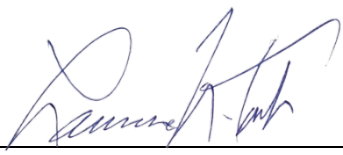
RESPONSE: Even with the expansion of the CBCA boundaries, this revision proposes lot coverage far below the 15% permitted in the CBCA. This proposal will also reduce the total amount of lot coverage approved for construction in the CBCA because it proposes a net decrease of 9,840 sq. ft. of gross floor area, and a 7,367 sq. ft. reduction in impervious cover within the LOD, compared to the development approved in SE-4663. As mentioned previously, in 2013, the 12,240 sq. ft. Moss Building was approved through SE-4663, and at the time of approval, the Moss Building was located outside the delineated limits of the CBCA. However, the CBCA boundaries were expanded after 2013 through the use of improved mapping techniques to encompass the Moss

Building. By proposing to remove the 12,240 sq. ft. Moss Building and replace it with the 2,400 sq. ft. open-air pavilion, there will be a reduction of 9,840 sq. ft. of gross floor area in the CBCA. Furthermore, when also calculating the fewer number of parking spaces to serve the smaller building, along with the additional reduction in vehicular and pedestrian access to the building, there will be a total reduction of 7,367 sq. ft. of impervious area within the LOD from that which was originally approved in 2013. Since SE-4663 remains valid, and: (1) this special exception was approved through, and thus allowed by, this Subtitle; and (2) granting this request will not result in a net increase in the existing lot coverage in the CBCA; this request for a revision to SE-4663 may be granted.


III. CONCLUSION

For all of the above-stated reasons, we respectfully request approval of the above-described major revision to Conservation Plan No. CP-10005, Revision 01, and minor change to Special Exception No. SE-4663, to be referred to as Revision of Site Plan No. ROSP-4663-02.

O'MALLEY, MILES, NYLEN & GILMORE, P.A.

By: 

Lawrence N. Taub




Nathaniel Forman
7850 Walker Drive, Suite 310
Greenbelt, MD 20770


Attorneys for Applicant

December 17, 2020

MEMORANDUM

TO: Thomas Sievers, Planner Coordinator, Urban Design Review Section, Development Review Division

VIA: David A. Green, MBA, Master Planner, Community Planning Division 

FROM: Wendy Irminger, Planner Coordinator, Neighborhood Revitalization Section, Community Planning Division 

SUBJECT: ROSP-4663-02; CP-10005 Alice Ferguson Foundation

FINDINGS

Pursuant to Part 3, Division 9, Subdivision 3 of the Zoning Ordinance, Master Plan conformance is not required for this application.

BACKGROUND

Application Type: Revisions of a Special Exception Site Plan and a Conservation Plan

Location: North side of Bryan Point Road, along the south bank of Piscataway Creek

Size: 18 acres; Limits of Disturbance for Conservation Plan is .85 acre

Existing Uses: Eleemosynary institution

Proposal: Replace an approved but unbuilt 12,240 square foot pavilion with a 2,400 square foot open air pavilion and access improvements

GENERAL PLAN, MASTER PLAN, AND SMA

General Plan: This application is consistent with the 2014 *Plan Prince George's 2035 General Plan* which designates this application in a Rural and Agricultural Area policy area. The vision for the Rural and Agricultural Areas includes retaining low-density residential, supporting park and open space land uses and focusing new investment on maintaining existing infrastructure.

Master Plan: The 2013 *Approved Subregion 5 Master Plan* (CR-80-2013) recommends Rural land uses on the subject property. The existing and proposed use on this site is ...

Planning Area: 83

Community: Accokeek

Aviation/MIOZ: This application is not located within an Aviation Policy Area or the Military Installation Overlay Zone.

SMA/Zoning: The 2013 *Approved Subregion 5 Sectional Map Amendment* (CR-81-2013) retained the subject property in the O-S (Open Space) Zone. The subject property is also partially within the Chesapeake Bay Critical Area, Resource Conservation Overlay (RCO) Zone (CR-97-2014).

MASTER PLAN CONFORMANCE ISSUES:

None

ADDITIONAL INFORMATION

The subject property is within the Mount Vernon Viewshed Area of Primary Concern, see Master Plan, page 40.

c: Long-range Agenda Notebook

Frederick Stachura, Planning Supervisor, Neighborhood Revitalization Section, Community Planning Division



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

Countywide Planning Division
Historic Preservation Section

301-952-3680

December 23, 2020

MEMORANDUM

TO: Thomas Sievers, Subdivision and Zoning Section, Development Review Division

VIA: Howard Berger, Supervisor, Historic Preservation Section, Countywide Planning Division **HSB**

FROM: Jennifer Stabler, Historic Preservation Section, Countywide Planning Division **JAS**
Tyler Smith, Historic Preservation Section, Countywide Planning Division **TAS**

SUBJECT: RO SP-4663-02 & CP-10005-01

Findings

1. The subject property is located on a 118-acre site on the north side of Bryan Point Road, approximately 2.4 miles west of Farmington Road in Accokeek, Maryland. The property is Zoned O-s and R-C-O. The applicant requests a revision to CP-10005 and SE-4663 to remove the previously approved 12,240 square foot educational building/lodge known as the Moss Potomac Watershed Study Center and replace it with a 2,400-square-foot open pavilion. The application also requests a revision of the number of parking spaces, as well as vehicular and pedestrian access and configuration due to the proposed change.
2. The subject property does not contain and is not adjacent to any Prince George's County Historic Sites or Resources.
3. A Phase I archeological survey was conducted on the subject property in October 2008 and February 2009. Two archeological sites, 18PR962 and 18PR963, were identified in the Phase I survey, *A Phase I Archeological Investigation of the Proposed Potomac River Habitat Study Complex at the Hard Bargain Farm Environmental Center Property, Prince George's County, Maryland* (April 2009).

Site 18PR962 was identified as a prehistoric lithic scatter representing a short-term resource procurement site that surrounded a springhead and associated swale. It's located in the area where the open pavilion is proposed. Most of the artifacts recovered were of chipped stone from the manufacture of tools and some sherds of unidentifiable prehistoric ceramics. The site was generally dated by the presence of the ceramic sherds to the Woodland Period (500 BC-1600 AD). The stratigraphic integrity of the site varied from the eastern portion, which had fewer artifacts and was more disturbed, to the western portion, which had a greater number of artifacts and intact soil deposits. The eastern portion of site 18PR962, where the

pavilion is proposed, has been affected and disturbed by erosion and depositional forces that have affected its horizontal and vertical integrity.

Site 18PR963 was identified as a scatter of prehistoric lithic and ceramic artifacts covering an area of 16,141-square-feet in the western part of the study area. The site is interpreted as a prehistoric, short-term resource procurement camp that was likely occupied during the Late Woodland Period (900-1600 AD). This site is not located within the proposed limits of disturbance for this application.

Conclusions

1. This proposal will not affect any Prince George's County Historic Sites or Resources.
2. The significant portions of the two archeological sites, 18PR962 and 18PR963, will not be impacted by this proposal. No additional archeological investigations are recommended.

Recommendation

Historic Preservation staff recommend approval of ROSP-4663-02 and CP-10005-01, Alice Ferguson Foundation, with no conditions.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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


Countywide Planning Division
 Transportation Planning Section


301-952-3680

January 27, 2021

MEMORANDUM

TO: Thomas Sievers, Urban Design Section, Development Review Division

VIA: Bryan Barnett-Woods, Transportation Planning Section, Countywide Planning Division 

FROM: Noelle Smith, Transportation Planning Section, Countywide Planning Division 

SUBJECT: **Conservation Plan and Revision of Special Exception Plan Review for Multimodal Transportation Master Plan Compliance**

The following conservation plan (CP) and revision to special exception plan (ROSP) was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation (MPOT)*, 2013 *Approved Subregion 5 Master Plan*, and Subtitle 27 to provide the appropriate multimodal transportation recommendations.

CP Site Plan Number: CP-10005-01
ROSP Site Plan Number: ROSP-4663-02

Development Case Name: Alice Ferguson

	<u>Type of Master Plan Bikeway or Trail</u>	
Private R.O.W.	<input type="checkbox"/>	Public Use Trail Easement
County R.O.W.	<input type="checkbox"/>	Nature Trails
SHA R.O.W.	<input type="checkbox"/>	M-NCPPC - Parks
HOA	<input type="checkbox"/>	Bicycle Parking
Sidewalks	<input checked="" type="checkbox"/>	Trail Access
Add'l Connections	<input type="checkbox"/>	Bikeway Signage

Subject to 24-124.01: No

Bicycle and Pedestrian Impact Statement Scope Meeting Date: n/a

Development Case Background	
Building Square Footage (non-residential)	2,400-square-foot
Number of Units (residential)	n/a
Abutting Roadways	Bryan Point Road
Abutting or Nearby Master Plan Roadways	n/a
Abutting or Nearby Master Plan Trails	Shared roadway along Bryan Point Road (planned)

Proposed Use(s)	Pavilion
Zoning	O-S, R-C-O
Centers and/or Corridors	n/a
Prior Approvals on Subject Site	ROSP-2711-01, SE-4663,
Subject to 24-124.01:	No
Bicycle and Pedestrian Impact Statement Scope Meeting Date	n/a

Development Proposal

The subject application proposes to replace an approved 12,240 square foot educational building with a 2,400 square foot open air pavilion and revise vehicular parking and multimodal access to the site.

Existing Site Conditions

The site serves as an Eleemosynary and Philanthropic Institution and is currently developed with several buildings that facilitate educational activities and farming for school age children.

Prior Approvals

The site is subject to previously approved special exceptions. However, there are no conditions related to pedestrian, bicycle, or vehicular transportation.

Access and Circulation and Conformance with Zoning Ordinance

The subject site currently has one access point from Bryan Point Road. The circulation of the proposed development does not alter the access driveway. Within the site, the proposed layout includes a 14-foot-wide loop roadway that provides access to vehicular and bicycle parking and a pathway to the proposed the pavilion.

The submitted plans include existing and proposed surface parking with 24 total standard spaces including one handicap accessible, satisfying the required 15 spaces. Two bicycle racks are also currently provided onsite.

Additionally, the subject application proposes a pathway that transitions from 12-to-6-feet wide, connecting the parking to the proposed pavilion and an existing cabin.

Comment: Staff finds that motor vehicle and pedestrian circulation and lot access is acceptable and reflects the purpose of a resource overlay zone described in Section 27-548, and the findings of a special exception required in Section 27-317. However, staff recommend the widths of the access driveway and the pathway be dimensioned on the plan sheets.

Master Plan Policies and Recommendations

This development case is subject to 2009 *Approved Countywide Master Plan of Transportation* (MPOT). The subject site fronts Bryan Point Road which is designated as a shared roadway facility. The MPOT provides policy guidance regarding multimodal transportation and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling.

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 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

Section 27-325 (a)(4) indicates that an amendment to an approved special exception shall comply with the requirements of the subtitle. Section 27-317 lists the required findings for approving a special exception.

- (a) A Special Exception may be approved if:
- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Pan, or in the absence of a Master Plan or Functional Plan, the General Plan;

Comment: While the subject site frontage along Bryan Point Road is limited in relation to a greater bicycling network, withholding the shared lane facility along the subject site frontage would prevent the achieving the master plan. Staff recommend bikeway signage and shared lane markings be provided along the site's frontage of Bryan Point Road, unless modified by the Department of Permitting, Inspections and Enforcement (DPIE). Designated space for bicycle parking is currently provided on site. However, staff recommend locations and details of the racks be provided on the plan sheets. The existing amenities and recommended bicycle facility are improvements that fulfill the intent of the policies above.

Review Area Master Plan Compliance

This development is also subject to the 2013 *Approved Subregion 5 Master Plan*. The Area Master Plan also includes the following policies for pedestrian and bicyclist facilities (pg.118):

1. Promote pedestrian and bicycle opportunities as part of a multi-modal transportation network.

Comment: The recommended bikeway signage and existing bicycle racks are important facilities to provide bicycle opportunities and fulfill the intent of the policy above. Staff find that the proposed development is acceptable and reflects the purpose of a resource overlay zone described in Section 27-548 and the findings of a special exception required in Section 27-317, with the above recommendations.

Recommended Conditions of Approval

Based on the findings presented above, staff conclude that the pedestrian and bicycle access and circulation for this plan is acceptable, consistent with the purpose pursuant to Section 27-548, and meets the findings required by Section 27-317 for a conservation plan and revision to special exception plan for multimodal transportation purpose and conforms to the prior development approvals and the 2013 *Approved Subregion 5 Master Plan*, if the following condition is met:

1. Prior to certification of the conservation plan or revision of special exception plan, the applicant, or the applicant's heirs, successors, and/or assigns shall revise the plans to provide:
 - a) Dimensions of all drive aisles and sidewalk
 - b) Locations of bicycle racks and detail exhibit
 - c) Detailed exhibit of shared lane markings and bikeway signage along the subject property frontage of Bryan Point Road, unless modified by the Department of Permitting, Inspections and Enforcement, with written correspondence.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

Countywide Planning Division
Environmental Planning Section

301-952-3650

January 27, 2021

MEMORANDUM

TO: Thomas Sievers, Senior Planner, Zoning Review Section, DRD

VIA: Megan Reiser, Supervisor, Environmental Planning Section, CWPD *MKR*

FROM: Mary Rea, Senior Planner, Environmental Planning Section, CWPD *MAR*

SUBJECT: CP-10005-01 / ROSP-4663-02: Alice Ferguson Foundation

The Environmental Planning Section (EPS) has reviewed the Chesapeake Bay Critical Area (CBCA) Conservation Plan (CP), CP-10005-01 and Revision to the Special Exception (ROSP-4663-02), accepted on December 4, 2020. Comments were delivered to the applicant at the Subdivision, Development, Review Committee (SDRC) meeting on December 28, 2020. Revised plans were submitted in response to these comments by the applicant and logged in for review on January 27, 2021. The Environmental Planning Section recommends approval of CP-10005-01/ROSP-4663-02 subject to no conditions.

Background

The Environmental Planning Section has reviewed previously approved versions of CP-10005, SE-4663-01, NRI-036-10, and TCP2-017-12. The total site area is 120.05 acres with 20.17 acres within the CBCA. In 2015 the CBCA boundary line was updated, which increased the amount of property located in the CBCA from 7.88 acres to 20.17 acres.

Proposed Activity

This Revision to the Special Exception is for the removal of the previously approved 12,240 square-foot educational building and replacing it with a 2,400 square-foot open air pavilion with associated parking. This portion of the project was previously located outside of the Chesapeake Bay Critical Area (CBCA) and was not part of the CP, but part of TCP2-017-12. The 2015 CBCA map update shifted the CBCA boundary line, which moved this portion of the project into the CBCA. This portion of the project is entirely within the CBCA – Resource Conservation Overlay (RCO) zone and will not have buffer impacts.

VariANCES

This application does not require a CBCA variance request for the proposed development.

Environmental Review

Natural Resource Inventory/Existing Features

An approved Natural Resource Inventory plan (NRI-036-20) was approved on September 15, 2011. The existing conditions are shown correctly on the submitted revised CP.

No revisions are required to the Natural Resource Inventory plan.

CBCA Conservation Plan

A CP was submitted on December 4, 2020 and comments regarding compliance with the CBCA regulations were provided to the applicant. The previously approved 12,240 square-foot educational building will be replaced with a 2,400 square-foot open air pavilion with associated parking. The previously approved educational building was at the time outside of the Critical Area and was approved under TCP2-017-12. With the 2015 CBCA map update the area for this revision was placed in the Critical Area. The revision to the previously approved placement of structures will reduce the overall amount of proposed impervious area by 9,840 square feet on the site. The area within the CBCA is 878,605.20 square feet (20.17 acres), a 15% impervious area is allowed, which is 131,790.78 square feet (3.03 acres). The previously approved impervious surface impacts in the Critical Area were 9,071 square feet (0.21 acres), which did not include this revised area. The proposed 2,400 square-foot open air pavilion with associated parking will increase the total impervious area in the Critical Area to 44,735 square feet (1.03 acres), which is still below the allowable 15%.

No CP plan revisions are required.

Stormwater Management

An approved Stormwater Management Concept plan and approval letter were submitted with the subject application (Concept approval #1278-2020). Existing stormwater management (SWM) features include three bioretention facilities and one rain garden, all were built in Phase one of the project. The amount of impervious area has decreased from the original approval and no additional stormwater structures are required with this revision. A SWM fee of \$1,920.00 in lieu of providing on-site attenuation/quality control measures was approved for this site.

No revisions are required to the Stormwater Management Concept plan and approval letter.

Chesapeake Bay Conservation and Planting Agreement

A Chesapeake Bay Conservation and Planting Agreement was recorded on April 9, 2013 under liber 34585 folio 5909 and is still valid for the revision.

CP-10005-01/ROSP-4663-02
Alice Ferguson Foundation
January 27, 2021
Page 3

Chesapeake Bay Conservation Easement

A Conservation Easement will not be required for this site.

Summary of Recommended Findings and Conditions

The Environmental Planning Section recommends approval of CP-10005-01 and ROSP-4663-02 with no conditions.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org
301-952-3530

February 1, 2021

MEMORANDUM

TO: Thomas Sievers, Senior Planner, Subdivision and Zoning Section

VIA: Henry Zhang, Master Planner, Urban Design Section

FROM: Adam Bossi, Planner Coordinator, Urban Design Section

SUBJECT: Chesapeake Bay Critical Area Conservation Plan CP-10005-01 & Revision of Special Exception Site Plan ROSP-4663-02 – Alice Ferguson Foundation

The Urban Design Section has reviewed the package accepted on December 4, 2020 and revised on January 27, 2021 in support of Chesapeake Bay Critical Area Conservation Plan CP-10005-01 & Revision of Special Exception Site Plan ROSP-4663-02. In each application, a 2,400 square-foot, open-air pavilion is proposed to replace a previously approved 12,240 square-foot building. The pavilion is sited in the footprint of the building. A looped driveway is proposed to access the pavilion, with associated minor adjustments to parking, landscaping and sidewalks. The overall reduction in building footprint and paved areas yields a net decrease of 7,367 square feet of impervious area in the project area. The subject site involves a portion of an 18-acre area that is part of a larger 118-acre farm operated by the Foundation as an environmental education center. The subject site is in the Open Space (O-S) Zone and within the Chesapeake Bay Critical Area's Resource Conservation Overlay (R-C-O) Zone. The Potomac River is located approximately 0.4 miles north of the subject site and separated from it by agricultural land and woodlands. Based on the Urban Design Section's review of CP-10005-01 and ROSP-4663-02 we offer the following comments:

Conformance with the Requirements of the Prince George's County Zoning Ordinance

1. The application is subject to the requirements of the O-S Zone. The Farm's existing use as an eleemosynary institution is to continue and was previously approved by Special Exception SE-4663. As the work proposed by these applications reduces the scope of the previously approved development, there are no major conformance issues. Minor development layout adjustments are shown and compliment the development of a pavilion in lieu of a building. Parking, landscaping, and the addition of a looped driveway are acceptable. Other elements of the previously approved development remain unchanged.

CHESAPEAKE BAY CRITICAL AREA (CBCA) ORDINANCE

2. The application is subject to the requirements of Section 5B-115, R-C-O Zone of the CBCA Ordinance. Conformance with these requirements was found with the approval of CP-10005. The CP amendment remains in conformance the applicable requirements and provides for a net reduction of 7,367 square feet of impervious area compared to the

originally approved project. Other elements of the previously approved development remain unchanged.

Conformance with Prior Approvals

3. SE-4663 was approved by the Zoning Hearing Examiner in 2012 subject to seven conditions. ROSP-4663-01 was approved by the Planning Director in 2015 for minor modifications of the site plan with no modifications to conditions. The current application is in conformance with the conditions of SE-4663. However, as a pavilion was not included in the prior approvals, any future visual impact analysis, as required by Condition 2 of SE-4663, should use the pavilion to replace previously approved building in the analysis.
4. CP-10005 was approved by the Planning Board in 2012 subject to one condition. The proposed amendment conforms with the condition of the prior approval. The limited scope and reduced scale of the project will have a lesser impact in the critical area.

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

5. Conformance with the requirements of the Landscape Manual were previously determined with prior approvals. A reduction in the quantity of plant units to be provided is shown with the amendment, however, the plantings to be removed are not within a required buffer or landscape yard. The removal of the plant units as shown on the plans and updated landscape schedule for Section 4.9 Sustainable Landscape Requirements is acceptable. The overall project remains in conformance with the requirements of the Landscape Manual.

Conformance with the Prince George's County Tree Canopy Coverage Ordinance

6. The proposal is exempt from the Tree Canopy Coverage Ordinance per Section 25-127(b)(1)(D) as the subject site is within the O-S Zone.

Urban Design Section Recommendation

In accordance with the above analysis, the Urban Design Section has no objection to the approval of CP-10005-01 and ROSP-4663-02, for **Alice Ferguson Foundation**.

From: [Holley, Edward](#)
To: [Burke, Thomas](#); [Sun, Paul](#)
Cc: [Sievers, Thomas](#)
Subject: Re: ROSP-4663-02/CP-10005-01 Alice Ferguson - Parks Referral
Date: Tuesday, February 2, 2021 3:03:36 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[Outlook-cid_5a090a.png](#)
[Outlook-cid_676d8a.png](#)
[Outlook-cid_f65557.png](#)
[Outlook-cid_d34790.png](#)
[Outlook-cid_4efc01.png](#)
[Outlook-cid_0d91fd.png](#)
[Outlook-cid_bb3116.png](#)
[Outlook-cid_4750ea.png](#)

Hi Tom S.,

I spoke briefly with Paul about this case, and I remember when the original SE was reviewed by Tom Lockard. The property isn't adjacent to any parkland and the revision will pose no impact to existing or future parkland...so the Parks Dept. will not be commenting on the Revision of Special Exception application.

Thank you,

Edward Holley

Principal Planning Technician
Park Planning & Development Division
The M-NCPPC - Prince George's County Department of Parks and Recreation
6600 Kenilworth Avenue, Suite 301
Riverdale, MD 20737
Edward.Holley@pgparks.com
DIRECT: 301-699-2518 MAIN: 301-699-2525 FAX: 301-277-9041

Stay connected:



From: Burke, Thomas <Thomas.Burke@pgparks.com>
Sent: Tuesday, February 2, 2021 2:55 PM
To: Sun, Paul <Paul.Sun@pgparks.com>
Cc: Sievers, Thomas <Thomas.Sievers@ppd.mncppc.org>; Holley, Edward

<Edward.Holley@Pgparcs.com>

Subject: FW: ROSP-4663-02/CP-10005-01 Alice Ferguson - Parks Referral

Hey Paul. Is this your case? If so, can you weigh in?

From: Sievers, Thomas <Thomas.Sievers@ppd.mncppc.org>

Sent: Tuesday, February 2, 2021 2:54 PM

To: Burke, Thomas <Thomas.Burke@pgparcs.com>

Cc: Holley, Edward <Edward.Holley@Pgparcs.com>

Subject: RE: ROSP-4663-02/CP-10005-01 Alice Ferguson - Parks Referral

Ok, thank you. I think it may be Paul Sun's case.

Tom Sievers, MA, MAIS

Senior Planner | CPTED Specialist | Zoning Review Section

 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County Planning Department

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772

301-952-3994 | thomas.sievers@ppd.mncppc.org



From: Burke, Thomas <Thomas.Burke@pgparcs.com>

Sent: Tuesday, February 2, 2021 2:51 PM

To: Sievers, Thomas <Thomas.Sievers@ppd.mncppc.org>

Cc: Holley, Edward <Edward.Holley@Pgparcs.com>

Subject: RE: ROSP-4663-02/CP-10005-01 Alice Ferguson - Parks Referral

Hi Tom,

I don't know anything about this project, so by copy I have included Ed Holley to see if he knows anything.

Tom Burke

From: Sievers, Thomas <Thomas.Sievers@ppd.mncppc.org>

Sent: Tuesday, February 2, 2021 12:54 PM

To: Burke, Thomas <Thomas.Burke@pgparcs.com>

Subject: ROSP-4663-02/CP-10005-01 Alice Ferguson - Parks Referral

Tom,

Will Parks be providing a referral for this case? I know the change to an open air pavilion is quite minor.

Thanks,

Tom Sievers, MA, MAIS

Senior Planner | CPTED Specialist | Zoning Review Section



14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772

301-952-3994 | thomas.sievers@ppd.mncppc.org





Angela D. Alsobrooks
County Executive

THE PRINCE GEORGE'S COUNTY GOVERNMENT
Department of Permitting, Inspections and Enforcement
Site/Road Plan Review Division



Melinda Bolling
Director

MEMORANDUM

December 16, 2020

TO: Thomas Sievers, Subdivision Review Section
Maryland-National Capital Park & Planning Commission

FROM: Shirley Anthony Branch, Water and Sewer Plan Coordinator *SAB*
Site/Road Plan Review Division, DPIE

RE: SDRC Comments – Alice Ferguson Foundation, #ROSP-4663-02

Below are my comments on a Revision of Site Plan (ROSP) scheduled for review at the **December 28, 2020** SDRC meeting. This is a first response for this project. Should you have any questions regarding the attached information, please feel free to call me at 301.636.2060.

ROSP-4663-02 Alice Ferguson Foundation
Tax map: 140 F-4, Parcel 7
Acres: 50.83; Zoning: O-S
WSSC Grid: 219SW02

1. The 2018 Water and Sewer Plan designates Parcel 7 in Water and Sewer Category 6, outside the Sewer Envelope, in the Rural and Agricultural Tier, and within Tier 4 under the Sustainable Growth Act; not planned or zoned for public sewer service; planned for conservation. Aerial views depict the parcel is developed with multiple buildings.
2. Well and septic system are the methods used in the Rural and Agricultural Tiers.

*The Department of Permitting, Inspections and Enforcement (DPIE) determines the validity in category designations of the Prince George's County Water and Sewer Category Maps. Information reflects the category designated by the 2018 Water and Sewer Plan and its amendments deemed accurate as of **November 20, 2020**. Any dispute of the designated category or comments herein may be addressed to the Site/Road Plan Review Division, Water and Sewer Plan Coordinator, at 301.636.2060.*

SAB:dar

cc: Mary C. Giles, P.E., Associate Director, S/RPRD, DPIE

Clerk Samnerly

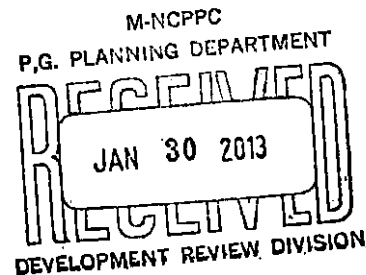


THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
(301) 952-3600

January 30, 2013

RE: SE 4663 Alice Ferguson Foundation (Hard Bargain Farm)
Alice Ferguson Foundation, Applicant



DECLARATION OF FINALITY OF THE ZONING HEARING EXAMINER'S DECISION

The decision of the Zoning Hearing Examiner in this case was filed with the District Council of Prince George's County, Maryland, on November 15, 2012. A copy of the decision was sent to all persons of record on that date. Since no appeal of that decision was filed with the District Council by any person of record or the People's Zoning Counsel, and since the District Council did not elect to make the final decision, the decision of the Zoning Hearing Examiner, Approval, with conditions became final and effective on January 16, 2013 in accordance with the provisions of Section 27-312 of the Zoning Ordinance of Prince George's County, Maryland.

CERTIFICATE OF SERVICE

This is to certify that on January 30, 2013 this notice was mailed, postage prepaid, to all persons of record.

Redis C. Floyd

Redis C. Floyd
Clerk of the Council

OFFICE OF ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY, MARYLAND

NOTICE OF DECISION

Councilmanic District: 9

S.E. 4663 & TCP 2/017/12
Alice Ferguson Foundation
Case Number

On the 15th day of November, 2012, the attached Decision of the Zoning Hearing Examiner in Case No. S.E. 4663 and TCP-2/017/12 was filed with the District Council.

The Zoning Hearing Examiner's decision shall become final 30 calendar days after the above filing date unless:

- (1) Written appeal within 30 days of the above date is filed* with the District Council by any person of record or by the People's Zoning Counsel; or
- (2) The District Council directs the case be transmitted to the Council for final disposition by the Council.

Zoning Hearing Examiner
County Administration Building
Upper Marlboro, MD 20772
952-3644

*Instructions regarding appeals and oral argument are found on the reverse side of this notice.

Your failure to note an appeal may result in a waiver of your rights to an appeal.

cc: Lawrence N. Taub, Esq., 11785 Beltsville Drive, 10th Floor, Calverton, MD 20705
Lori Arguelles, Executive Director, Alice Ferguson Foundation,
2001 Bryan Point Road, Accokeek, MD 20607
Persons of Record (43)
Rajesh A. Kumar, Acting Principal Counsel to the District Council (Hand Delivered)
Stan D. Brown, People's Zoning Counsel, 1300 Caraway Ct., Suite 101, Largo, MD 20774

NOTEDCI

INSTRUCTIONS FOR FILING

I. Appeal of the Examiner's Decision Shall Be:

- a) In writing;
- b) In a format in which each ground for appeal is numbered in sequence;
- c) Specific as to the error(s) which are claimed to have been committed by the Examiner;

(The page and paragraph numbers of the Examiner's Decision should be identified.)

- d) Specific as to those portions of the record, including the Hearing Examiner's Decision, relied upon to support your allegation of error(s) committed by the Examiner.

(The Exhibit number, transcript page number, and/or the page and paragraph numbers of the Examiner's Decision should be identified.)

II. Requests for Oral Argument:

If you desire oral argument before the District Council, request must be made, in writing, at the time of filing your appeal.

III. Notification to All Persons of Record:

Your appeal and any accompanying request for oral argument must contain a certificate of service to the effect that a copy thereof was sent by you to all persons of record by regular mail.

(A list of these persons and their addresses is included in this notice of Examiner's decision sent to you herewith or is available from the Clerk to the Council.)

IV. When to File:

Your appeal and any request for oral argument must be filed within 30 calendar days after the Examiner's Decision has been filed with the District Council.

V. Where to File:

Clerk of the County Council
County Administration Building
Upper Marlboro, Maryland 20772
Phone: 952-3600

INSTRUCTIONS FOR REPLY TO A REQUEST FOR ORAL ARGUMENT

If you are notified that another person of record has requested oral argument, you may:

- 1) Participate in the hearing if there is oral argument, and/or
- 2) Reply, in writing, to the District Council, opposition. Copies of any written material to be submitted in support of this opposition position shall be filed with the Clerk and all persons of record no later than five (5) business days before the date of oral argument.

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4663**

TCP 2-017-12

DECISION

Application: Eleemosynary Institution
Applicant: Alice Ferguson Foundation
Opposition: None
Hearing Date: September 5, 2012
Hearing Examiner: Maurene Epps Webb
Disposition: Approval with Conditions

NATURE OF PROCEEDINGS

- (1) Special Exception 4663 is a request for permission to use approximately 18 acres of O-S (Open Space) zoned land located along the northeast and southwest sides of Bryan Point Road west of Farmington Road, identified as 2001, 2201 and 2305 Bryan Point Road, Accokeek, Maryland, as an Eleemosynary Institution.
- (2) The Technical Staff recommended approval with conditions. (Exhibit 11) The Planning Board also recommended approval with the same conditions. (Exhibit 56(b))
- (3) No one appeared in opposition to the Application. At the close of the hearing the record was left open to allow the Applicant to submit several items. The last of these was received on October 4, 2012. Two of the revised plans were submitted to Staff for review and comment. All comments were received by November 9, 2012, and the record was closed at that time.

FINDINGS OF FACT

Subject Property

- (1) The 18-acre subject property is a combination of parts of two (2) predominantly wooded parcels, totaling approximately 118 acres,¹ located on the northeast and southwest sides of Bryan Point Road. (Exhibit 40, T. 11) Vehicular access to the site is provided via Bryan Point Road. (Exhibits 44 (a) and (b), T. 8) The subject property has 2,806 feet of frontage along Bryan Point Road. The subject property contains regulated environmental features, including streams and their 100-foot-wide buffers, wetlands and their 25-foot wide buffers and the 100-year floodplain, all outside of the Chesapeake

¹ The revised Site Plan (Exhibit 57(b)) inexplicably indicates that the total site area is 120.05 acres in size.

Bay Critical Area. (Exhibit 11, p. 7) A small portion of the site (2.3 %) is located within the Chesapeake Bay Critical Area.

(2) The property is subject to the Woodland and Wildlife Habitation Conservation Ordinance and Applicant has submitted a Type 2 Tree Conservation Plan (TCP 2-017-12). (Exhibit 57(d))

Surrounding Property

(3) The property is surrounded by the following uses:

- On the north, Piscataway Park in the R-O-S Zone
- On the east, privately owned, undeveloped land in the O-S Zone
- On the south, Bryan Point Road, additional undeveloped land owned by Applicant and single-family residences on large lots in the O-S Zone
- On the west, the Wagner Community Center and Pool in the O-S Zone

Neighborhood

(4) The neighborhood is bounded on the northwest by Piscataway Creek and the Potomac River, on the east and south by a network of roads, including Farmington, Marshall Hall, New Marshall Hall and Mockley Point Roads, and on the southwest by the Charles County boundary.

Master Plan/Zoning

(5) The subject property is within an area governed by the 2009 Subregion 5 Master Plan. The Master Plan recommends a rural use for the subject property and the surrounding area and the Sectional Map Amendment retained the O-S zoning for the site.² The 2002 General Plan placed the property in the Rural Tier. As noted on page 40 of said Plan, "[t]he vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist."

Applicant's Proposal

(6) In 1974, the District Council approved Special Exception No. 2711 for a Private Educational Institution to operate on the entire 118-acre site. A minor revision to this special exception was approved in 1985 to allow an addition to one of the buildings and the construction of a deck. The entire site is owned by the Alice Ferguson Foundation and is operated as an environmental education center and working farm for school-age children and, occasionally, adults (the "Hard Bargain Farm"). (Exhibits 50(a) and (b); T. 23-24, 27 and 31) Applicant has never operated a traditional school with academic

² A recent Circuit Court decision may have invalidated the 2009 Subregion 5 Master Plan. For that reason, I would note that the 1993 Subregion 5 Master Plan and Sectional Map Amendment also recommended a rural use of the property.

programs on the site. (T. 26) The instant Application is for an Eleemosynary/Philanthropic Institution because Applicant is a non-profit 501(c)(3) organization and the use is not one otherwise permitted in the zone. (Exhibit 46) This 18-acre area will be known as the "Potomac Watershed Study Center." (T. 28)

(7) Applicant intends to remove an existing lodge and replace it within essentially the same footprint (the 12,240 square foot "Moss Building"). Applicant's Executive Director testified that this existing facility "is showing its age" and has had "some mold issues", thus necessitating its reconstruction. (T. 25) The Moss Building roof will be designed to capture rain water and purify it to potable standards for use on site. This building will accommodate 44 children or adults and will contain classrooms, meeting rooms, teaching labs for environmental education, a commercial kitchen, offices, and decks. Applicant will construct a day educational facility (the 3,846 square foot "Grass Building") that will be one-story and will consist of a large meeting/classroom space, a kitchen, bathrooms, and covered decks. (Exhibit 56) Applicant will also construct two additional sleeping cabins (870 square feet each) that will house approximately twenty-two (22) people each. (T. 9-10) Applicant submitted architectural drawings for the proposed buildings. (Exhibits 56 (l) – (n)) All buildings will meet sustainable "green" development standards. (Exhibit 50 (a) and (b), T. 46) As one witness stated:

One of the ideas behind the development of this facility is that the facilities themselves will actually become a part of the pedagogy, so when kids come to the facility for their overnight programs, for example, they will be given energy and water budgets that they have to live within during their stay there and they'll be able to compare them with the success of other groups that have been there. Lori testified to one of their programs being the Trash-Free Potomac initiative, so this is also being designed to be a trash-free facility. Living buildings – why is this important? Primarily because even the most highly rated green building – like a LEED Platinum building, which is the highest certification conveyed by GBCI. It's still just doing less bad than a code-compliant building, and the idea behind living buildings is that we can create buildings that are actually doing no bad – that are having no deleterious effect on the natural environment and hopefully at some point will actually be regenerative – will actually be restoring some of the damage that we have done.

(T. 46-47)

(8) There will be interconnected aggregate pathways to connect the cabins to the lodge and day educational building and back to Bryan Point Road. (T. 12) In total, the gross square footage developed on the property will increase from 4,028 square feet to 17,826 square feet. The closest structure to a Special Exception boundary line will be over thirty feet away. (Exhibits 44 (b) and 57 (b))

(9) To the west of Bryan Point Road Applicant intends to construct an elevated open, wooden deck boardwalk within a wetland area located within the Chesapeake Bay

Critical Area.³ The elevated boardwalk will be used to educate visitors about the environment. The boardwalk will be approximately 980 feet long and will include a six-foot wide bridge section that crosses Accokeek Creek.

(10) As discussed above, Applicant intends to design all facilities in an energy-efficient manner and will construct environmentally-sensitive and sustainable facilities. (Exhibits 56(a) and (d)) To further this goal it will also install solar panels on site. Some of the panels will also be located within the Chesapeake Bay Critical Area. Building within any portion of the Chesapeake Bay Critical Area requires approval of a conservation plan by the Planning Board. Applicant submitted a copy of the Planning Board's approval of Conservation Plan 10005 for inclusion in the instant record. (Exhibit 58 (b)) Section 5B-115 (c)(10) of the Prince George's County Code provides that in the R-C-O Zone "critical area lot coverage shall be limited to 15 percent of the site." Applicant is proposing 2.3 percent lot coverage within the R-C-O Zone. (Exhibit 11, p. 8; Exhibit 56(c), p. 2)

(11) The site contains regulated environmental features. Any impacts to regulated environmental features must be limited. The elevated boardwalks and grading for a proposed challenge course impact the regulated environmental features. However, since both the boardwalks and the challenge course are central to Applicant's educational plan and since the elevated crossing over the eastern portion of the site is necessary for pedestrian access to other trails on the property I can find that the regulated environmental features are preserved in a natural state to the fullest extent possible.

(12) The proposed use will also require an increase in the existing parking. Twenty-five spaces are required and twenty-seven are provided. The parking will be located along the entrance road and in a "main" parking area close to the entrance road. (Exhibit 57(c))

(13) Applicant conducted a balloon test from different vantage points to ascertain what portions of the buildings can be seen offsite and to ensure that the viewshed for Mount Vernon would not be negatively impacted. The test revealed that most of the development would not be detectible to those traveling Bryan Point Road. (Exhibit 56 (k))

(14) The Application is subject to the requirements of the Landscape Manual since there will be an increase in gross floor area of 17, 826 square feet. Applicant submitted a revised Special Exception Site and Lighting Plan, Landscape Plan, Type 2 Tree Conservation Plan, and stormwater management concept plan, in response to the conditions recommended by the Planning Board. (Exhibits 57 (b)-(f)) A few further revisions are required.

³ The area of the subject property that lies within the Chesapeake Bay Critical Area is depicted above the dashed line shown on Exhibit 44(a).

Agency Comment

(15) The Technical Staff recommended that the Application be approved with certain minor conditions. The Community Planning Section noted that the site "is located in the northwestern corner of the Mount Vernon Viewshed Area of Primary Concern." (Attachment to Exhibit 11) It recommended that any outside lighting use full cut-off optics to preserve the visibility of the natural night sky. It also suggested that vegetation be used to shield the impact of those limited areas of the site that will have visual impact given the topography at their location.

(16) Archeological site 18PR96Z is located in the central portion of the property. The eastern portion of the archeological site has been disturbed over time and requires no further evaluation. The western portion may contain "intact soil horizons and a higher artifact density." (Exhibit 11, p. 5) The proposed dirt road leading from Bryan Point Road may disturb a portion of this area. Staff and Applicant have suggested a recommendation to address this.

(17) The Transportation Planning Section opined that "the added structures do not appear to be sufficient to trigger the need for additional studies of traffic impacts." (Attachment to Exhibit 11). It also noted that access and circulation appear acceptable for the uses proposed.

(18) The Planning Board also recommended approval with conditions. It offered the following discussion in support of its decision:

This long-established philanthropic use will not disrupt the orderly growth of the county as it is a use that complements and is compatible with the neighborhood's rural, historical and natural character....The proposed continued operation of a quasi-public environmental center by a philanthropic organization is not expected to create adverse effects on the public health, safety and welfare. Rather, the facility is expected to continue to enhance the quality of life for county residents. The use will offer school children who live in the county and region positive opportunities to grow and benefit from various programs and activities....

Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property....The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with the County Code.... The special exception proposes impacts to the regulated environmental features in order to install two elevated boardwalks and grading for a challenge course area. These impacts total 11,980 square feet and are considered necessary to the orderly development of the subject property, in keeping with the educational and

environmental goals of the foundation. The plan shows the preservation of the remaining areas of PMA and the isolated wetland.... The boardwalk on the western portion of the property is necessary to fulfill the environmental education aspect of the proposal. The elevated crossing over the isolated wetland and buffer located on the eastern portion of the property is necessary for pedestrian access to other on-site trail segments; this impact is an elevated crossing and adds to the opportunities for students to experience varied habitat areas which are central to the environmentally focused program. Grading for the challenge course, located on the westernmost portion of the site, is also necessary for the environmental education aspect of the proposal. This impact is located within the stream buffer, but is outside of wetlands and wetland buffers. It is recommended that prior to certification of the plans, the design for the challenge course be further evaluated for the possible reduction of impacts to regulated environmental features by relocating of a portion of the challenge course outside of the stream buffer.

(Exhibit 56(b), pp. 6-8) Applicant revised all plans to address the Planning Board's recommended approvals, although it has requested amendments to proposed conditions 3 and 5. (Exhibits 56(a)-(j)) Staff had the opportunity to look at certain revisions and has recommended further amendments.

Additional Agency Comment

(19) The request was reviewed by the Chesapeake Bay Critical Area Commission ("CBCAC"). While the CBCAC was in support of the Application it did raise concerns as to the impact on several rare, threatened or endangered species found within the special exception boundaries. (Exhibits 36 and 56(e)) However, Staff did further research and provided clarification:

The Critical Area Commission recommends that the applicant provide a survey of the species listed in the WHS letter and a protection plan that addresses how any impacts will be avoided.

An evaluation of the habitat for each of the species listed in the WHS letter has been conducted by EPS staff. All species listed in the letter, with one exception, are associated with ravine habitat that is not proposed to be disturbed with the current application. The exception is for the species *Juncus brachycarpus*, which is associated with coastal plain marshes. The status of this species is listed in the WHS letter as follows: "State status is Uncertain, although this species is considered to be possibly rare in Maryland." The WHS did not definitively determine this species to be listed as rare, threatened, or endangered.

(Exhibit 56(f), p. 1) Staff recommended that the following condition be imposed, in an abundance of caution: "Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all

federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.” (Exhibit 56 (f), p. 2)

(20) The Maryland Department of Planning /Maryland Historical Trust (“MDP”) also submitted comment concerning the request, “[s]ince the project is located on private property within Piscataway Park that is covered under a scenic easement with the National Park Service...” (Exhibit 56(j), p.1) Applicant completed a Phase I archeological survey of the areas slated for disturbance if the request is approved. The survey identified two archeological sites within the vicinity of these areas – 18PR962 (Hard Bargain Farm Center) and 18PR 963 (Hard Bargain Farm Footpath). MDP recommended the following conditions of approval:

1. The Foundation shall ensure that archeological site 18PR963 and the western portions of 18PR962 are avoided by all construction related ground disturbance, activities and equipment.
2. The Foundation shall provide site protection and avoidance through temporary fencing during construction, as needed, the inclusion of contractor avoidance procedures for sensitive areas, and through careful oversight during project construction.

(Exhibit 56(j), p. 2)

APPLICABLE LAW

(1) An Eleemosynary Institution is permitted in the O-S Zone by grant of a Special Exception pursuant to Sections 27-317 and 27-364 of the Zoning Ordinance.

(2) Section 27-317 provides as follows:

- (a) A Special Exception may be approved if:
 - (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
 - (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
 - (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;
 - (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;
 - (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
 - (6) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and
 - (7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).
- (b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:
 - (1) Where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or
 - (2) Where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.

(3) Section 27-364 provides, in pertinent part, as follows:

(a) A hospital, eleemosynary or philanthropic institution, or nursing or care home may be permitted, subject to the following:

- (1) **Hospital:**
 - (A) Total area - 5 contiguous acres;
 - (B) Street frontage - 300 feet; and
 - (C) Setback - 50 feet from all boundary lines of the Special Exception.
- (2) **Eleemosynary or philanthropic institution, except exclusively office use:**
 - (A) Total area - 1 acre;
 - (B) Street frontage - 150 feet;
 - (C) Setback - 25 feet from all boundary lines of the Special Exception.
- (3) **Eleemosynary or philanthropic institution, exclusively office use, or office use with one (1) dwelling unit within the main building which is subordinate in floor area to the office use:**
 - (A) Total area - 20,000 square feet;
 - (B) Street frontage - 65 feet;
 - (C) Setback - 25 feet from all boundary lines of the Special Exception.

* * * * *

(4) The Court of Appeals provided the standard to be applied in the review of a special exception application in Schultz v. Pritts, 291 Md 1, 432 A2d 1319, 1325 (1981):

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the [administrative body] that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. . . . But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal.

The record in this case reveals "no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan". It would, therefore, be proper to grant the request; once the conditions addressed below are satisfied.

CONCLUSIONS OF LAW

(1) The instant application may be approved, subject to the conditions addressed below, since it satisfies all applicable requirements of the Zoning Ordinance. It meets the following purposes of the Zoning Ordinance set forth in Section 27-102, and therefore satisfies Section 27-317 (a)(1):

1. *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

The proposed use will offer a form of education to children and adults within the County. Accordingly, this application does further the health, safety, comfort and convenience of inhabitants of the County.

3. *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

The record indicates that the minimal changes to the site will not increase the number of visitors and should have no impact on the transportation or other public facilities in the area. Thus, the application does promote the conservation of communities that will be developed with adequate public facilities and services.

5. *To provide adequate light, air, and privacy;*

The use will be located in buildings that will be designed in a manner that encourages open space and privacy. Accordingly, it will satisfy this purpose of the Zoning Ordinance.

6. *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The subject property is quite large. The Site Plan indicates that the closest building is set back over 30 feet from the boundary lines of the Special Exception. Moreover, the subject property will be buffered from adjoining properties in the manner required by the Landscape Manual. As a result, the application promotes the most beneficial relationship between the uses of land and buildings and it protects adjoining landowners from any adverse impacts.

12. *To insure the social and economic stability of all parts of the County;*

The proposed use will teach the youth (and adults) in the area the benefits of being environmental stewards. A certain number of people will be employed. As such it promotes the social stability and economic stability of the County.

(2) The requested use does not require further variances or waivers. Thus, it is in conformance with all the applicable requirements and regulations of the Zoning Ordinance. (Section 27-317 (a)(2))

(3) The instant application does not substantially impair the intent of the Subregion 5 Master Plan, which suggested a rural use of the property in 2009 and in 1993. Accordingly, the stricture found in Section 27-317 (a)(3) is satisfied.

(4) The proposed use is designed in an aesthetically pleasing manner, with sufficient buffers from adjacent properties. It is also designed in a manner that will minimize

impact on the environment (by using solar energy and reuse of rainwater, etc.) and in a manner that will not negatively impact the easement to protect the Mount Vernon viewshed. Thus it will neither adversely impact the health, safety, or welfare of residents/workers in the area, nor be a detriment to the use/development of adjacent properties or the general neighborhood. (Section 27-317 (a)(4) and (5)).

(5) A Tree Conservation Plan is being approved with the instant request. (Section 27-317 (a)(6)) The site does contain regulated environmental features, but they will be minimally impacted to install the elevated boardwalk, a path, and the solar panels. The remaining area of PMA and the isolated wetland will be preserved. (Section 27-317 (a)(7)) Finally, although 2.3 percent of the site lies within the Chesapeake Bay Critical Area, that portion is far less than the 15 percent lot coverage permitted therein. (Section 27-317 (b))

(6) The subject property is approximately 18 acres in size, has 2,806 feet of frontage along Bryan Point Road, and the closest proposed structures are set back in excess of 30 feet from the special exception boundary. Section 27-364(a)(2) provides that the use shall be one (1) acre in size, have 150 feet of street frontage, and be set back 25 feet from all boundary lines. Over the years these have been interpreted as minimum requirements, and I therefore agree that Applicant has satisfied this provision of the Zoning Ordinance. (T. 38, 65)

(7) The instant request is to amend S.E. 2711 by expanding/modifying facilities within an 18-acre portion of its boundaries. (Exhibit 12) I think the instant request will be an excellent use of the property because it will provide a form of environmental education that should be of benefit to its visitors. I also believe it will not negatively impact the community because it is essentially the same rural use that has occurred at the site for over forty years. However, certain provisions of the Zoning Ordinance require Applicant to also amend S.E. 2711 if this request is approved. Section 27-319(a) provides that "[d]evelopment and use shall be in accordance with the approved site plan" Section 27-323 provides, in relevant part, as follows:

Sec. 27-323. Alterations, enlargements, extensions, and revisions.

(a) All alterations, enlargements, extensions or revisions of Special Exception uses (including enlargements in land area and area of improvements, revisions of a site plan and in the configuration of land area, and extensions of time) shall require the filing and approval of a new application for the applicable Special Exception use, except as specifically provided for in this Subdivision.

(b) The new application shall include the entire land area covered by the original application, unless the new application is only for the purpose of adding land not covered by the original application. In this case, the new application may include only the land area being added, provided that the application fully demonstrates the relationship of development shown on both the new and originally approved site plans.

A general tenet of statutory construction mandates that all of these provisions be read in a way that allows no word or sentence to be rendered superfluous or nugatory. Potomac Valley Orthopaedic Associates v. Md. State Board of Physicians, 417 Md. 622 (2011) (citing, 91 Opinions of Attorney General 49 (Jan. 2006)) Thus, there is no

provision of the current Zoning Ordinance that will allow me to approve the use without also amending the original Site Plan for the entire site.

DISPOSITION

Special Exception 4663 and TCP 2-017-2012 are hereby approved subject to the following conditions:

1. With regard to development that may impact archeological site 18PR962, Applicant shall provide site protection and avoidance through temporary fencing during construction, as needed, the inclusion of contractor avoidance procedures for sensitive areas, and through careful oversight during project construction.
2. Any required roadway improvements on Bryan Point Road shall be carried out in accordance with Design Guidelines and Standards for Scenic and Historic Roads prepared by the Department of Public Works and Transportation, ("DPWT"), unless otherwise determined by DPWT.
3. Prior to the issuance of permits Applicant shall submit the the following revisions to the TCP 2 to the Office of the Zoning Hearing Examiner for review and inclusion to ensure that the following revisions were made to the TCP:
 - a. Show the Stream Buffer and Primary Management Area (PMA) on all sheets of the plan set, using the standard PMA symbol.
 - b. Revise the plan to show a single label and symbol for all specimen trees.
 - c. Show the location of the proposed septic recovery areas and their associated building connections.
 - d. Revise the worksheet to be based on site information located outside of the Critical Area. The worksheet should reflect an existing woodland area of 88.42 and an existing woodland floodplain area of 16.46. The worksheet on the plan should be revised per the updated Woodland Conservation Worksheet prepared by the Environmental Planning Section staff.
4. The associated tree protection fence and preservation signs for the challenge course should be adjusted to follow the new LOD.
5. Prior to the issuance of permits, Applicant shall submit a revised Landscape Plan to the Office of the Zoning Hearing Examiner for review and inclusion in the record. The Plan must be prepared in accordance with Section 2 of the 2010 *Prince George's County Landscape Manual* and the following corrections must be made:

- a. The size of the parking lot should be provided so the applicability of Section 4.3 may be assessed. If it is determined that Section 4.3 is applicable, a Section 4.3 schedule should be provided demonstrating conformance to its requirements.
 - b. The Section 4.2 schedule should be replaced with a Section 4.6 schedule for the entire site frontage along Bryan Point Road.
 - c. The Section 4.7 schedule should be provided demonstrating conformance with its requirements.
 - d. A Section 4.9 schedule should be provided demonstrating conformance with its requirements.
6. Prior to the issuance of permits the Special Exception Site Plan shall be revised as follows:
- a. General Note 12 on the Special Exception Cover and Approval Sheet shall be revised to indicate the correct acreage of the total site 118 acres.
 - b. General Note 4 on the Special Exception Cover and Approval Sheet shall delete the following language – "The proposed Lodge building is a permitted use in the O-S zone per Table 27-441(b) of the current Prince George's County Zoning Code. A detailed site plan is required for this use per Section 27-475.06.01 (a)(2) of the current Prince George's County Zoning Code."
7. Prior to the issuance of permits Applicant shall file a request to amend Special Exception No. 2711 to reference this approval and indicate the changes approved herein.

[Note: the Special Exception Site Plan, Landscape Plan and Tree Conservation Plan are Exhibits 57 (b), (c) and (d)]

LARRY TAUB

- HOW THIS SHOULD WORK IS THAT THE OLD SE IS REVISED ADMINISTRATIVELY TO REFLECT CHANGES APPROVED IN THE NEWER SE THAT LIES WITHIN THE BOUNDARY OF THE OLD SE. IT SHOULD BE MADE CLEAR THAT THIS ADMINISTRATIVE REVISION DOES NOT AUTHORIZE ALTERATION OR MODIFICATIONS TO THE PORTION OF SITE THAT IS SUBJECT TO THE OLD SE. IT SE SHOULD ALSO PERMIT ANY MODIFICATIONS TO NOTES OR TABLES ASSOCIATED WITH THE OLD SE AS DETERMINED NECESSARY BY [Director?]/ PISON H'S DESIGNEE

**INTER-OFFICE MEMORANDUM
PRINCE GEORGE'S COUNTY, MARYLAND**

ZONING HEARING EXAMINER OFFICE

County Administration Building, 2nd Floor
Upper Marlboro, Maryland 20772
(301) 952-3644
(301) 951-5178 Fax

April 24, 2013

M E M O R A N D U M

To: Redis C. Floyd
Clerk to the District Council

From: Maurene Epps Webb *Mew*
Chief Zoning Hearing Examiner

Re: S.E. 4663 – Alice Ferguson Foundation

The attached revised site plan and revised landscape plan, submitted to Tom Lockard, M-NCPPC on the 23rd day of April 2013, are in accordance with the conditions imposed by Zoning Hearing Examiner's Decision dated November 15, 2012, in the above captioned case.

Attachments

cc: Applicant/Attorney
People's Zoning Counsel
Property Standards Division
Zoning Applications Office, M-NCPPC

