

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

**ZONING MAP AMENDMENT**

**ZMA-2022-003**

**DECISION**

Application: Request to Rezone from the RR Zone to the R-PD Zone  
Applicant: DR Horton, Inc/Smith Lake Estates (Project Name)  
Opposition: None  
Hearing Dates: August 9, 2023 and November 15, 2023  
Hearing Examiner: Maurene Epps McNeil  
Recommendation: Approval with Conditions

**NATURE OF REQUEST**

(1) ZMA-2022-003 is a request for the rezoning of approximately 62.52 acres in the RR (Residential, Rural) Zone to the R-PD (Residential Planned Development) Zone for the development of a maximum of 150 single-family detached and townhouse dwelling units. The subject property is located on the west of Frank Tippett Road, approximately 600 feet from its intersection with Commo Road, and is identified as 10605, 10609, and 10703 Frank Tippett Road, Upper Marlboro, Maryland (described more fully below). Applicant DR Horton, Inc. is the contract purchaser of the subject property, and Walton Md, Inc. is the owner. Both business entities have received authorization from the State Department of Assessments and Taxation to conduct business within the State. (Exhibits 18(a) and (b))

(2) The Technical Staff and the Prince George's County Planning Board ("Planning Board") recommended approval of the request. (Exhibits 13 and 14(b))

(3) No one appeared in opposition to the request.

(4) The initial hearing was completed on August 9, 2023. Subsequent to that hearing this Examiner and the Planning Board discovered that the required placement of a legal advertisement for the request in a newspaper of record was inadvertently overlooked. As a result, the matter was continued to satisfy this requirement. The second hearing was held on November 15, 2023. The record was left open for an additional exhibit which was submitted on January 10, 2024. The record<sup>1</sup> was closed at that time.

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<sup>1</sup> The record consists of 35 Exhibits and the Transcripts from both hearings.

## FINDINGS OF FACT

### Subject Property

(1) The subject property is located approximately 800 feet southwest of the intersection of Commo Road and Frank Tippett Road in Upper Marlboro, Maryland. The subject property consists of four deed parcels known as Parcels 10, 18, 20, and 62 recorded in the Land Records of Prince George's County, Maryland, in Liber 42875 at Folio 528. (Exhibits 2 (b) and 33) It is improved with three collapsed buildings, three dwelling units, two barns, a frame garage, a covered pavilion, and a woodshed. There are existing environmental features on-site, including a forested stream valley and associated floodplain, a long-abandoned farm pond, upland woodlands, and wetlands. (Exhibit 13) The topography varies throughout the site but primarily slopes north and west towards the pond and stream valleys.

(2) The Technical Staff Report and Statement of Justification provide thorough recitations of the zoning history of the subject property. (Exhibits 2(b) and 13)

### Surrounding Property/Neighborhood

(3) The subject property is roughly triangular in shape and surrounded on the north, by Commo Road, and across by a single-family detached dwelling community known as Tippett Estates; on the east by single-family detached dwellings on unrecorded irregular-shaped and sized parcels in the RR Zone; and to the southwest by the approximately 930-acre Cheltenham Youth Facility in the RR Zone. (Exhibit 28; August 9, 2023 T. 37)

(4) The surrounding neighborhood has the following boundaries:<sup>2</sup>

North:	The Tippett Estates Subdivision in the RR Zone on approximately ¼-acre lots in the RR Zone
South:	The Cheltenham Youth Facility in the RR Zone
East:	Frank Tippett Road and the Terraco Acres development of single-family detached homes in the RR Zone and RSF-95 Zones on approximately ¼- acre lots
West:	Vacant land in the RR Zone

### Master Plan/Sectional Map Amendment (“SMA”)/General Plan

(5) The property lies within an area governed by the 2010 Subregion 6 Master Plan and Sectional Map Amendment (“SMA”) and the 2014 General Plan (“Plan 2035”). Plan 2035 placed the property within the Established Communities Growth Policy Area and

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<sup>2</sup> The neighborhood is expanded slightly from the adjacent properties to include all of the homes within the Terraco Acres and Tippett Estates developments.

described this area as one most appropriate for context-sensitive infill and low-to medium-density development. The General Plan notes that the subject property is part of the Future Water and Sewer Service Area, and the site is currently in Water Sewer Category 3. This service category allows development to proceed. The General Plan includes policies to phase future growth to coincide with the provision of public facilities and services. Applicant, Staff and the Planning Board addressed how this policy is met. (See below)

(6) The 2013 Subregion 6 Master Plan does not include much discussion on the area within which the site lies. However, it recommends Residential Low Land uses on the subject property. "Residential Low" uses are defined as "[r]esidential areas of up to 3.5 dwelling units per acre [and are] ...[p]rimarily single-family detached dwellings." (2013 Subregion 6 Master Plan and SMA, p. 40) Applicant, the Technical Staff and the Planning Board further discussed how this Plan is implemented. (See below).

### **Applicant's Request**

(7) Applicant noted that development under the old R-R Zone and under the new RR Zone did not work on the subject property since the maximum density allowed in those zones would be 2.17 dwelling units per acre and the existing environmental constraints on site would prevent it from building more than 62 lots "at best." ((Exhibit 2 (b), p. 1) Applicant believes that "the R-PD Zone can ... create ... neighborhoods that enjoy better design and function than what is typically provided in standard base zone development." (Exhibit 2 (b), p.8)

(8) Mr. Charlie Howe, accepted as an expert in civil engineering, provided further explanation on the genesis of the instant request:

The Subject Property has been rezoned to the RR zone by the Countywide Map Amendment. The previous R-R zone permitted a maximum density of 2.17 dwelling units/acre. Given the net tract area of approximately 57.69 acres, the R-R zone would ordinarily result in a maximum of 125 lots, but because of the existing environmental features and development regulations on the oddly shaped property, the permitted yield is a mere 62 lots with a resulting density of 1.07 dwelling units/acre.

The previous R-R and proposed RR zones require a minimum of 20,000 sf net lot area and a minimum lot width of 100 ft for single-family detached dwellings. Such large lots are no longer a driving force in the residential market and are predominantly not what residents of Prince George's County are looking for when buying a new home. Instead, proportionally scaled lots and homes within a comprehensively designed community with integral open space and connectivity is a greater model for development, allowing for a more effective environmental stewardship.

To achieve a density comparable to that of the CMA-updated RR zone, a reclassification to the Residential Planned Development Zone (R-PD) is requested. The R-PD zone would allow proportional density, net lot area, and

dimensional standards to be established with a PD Basic Plan. The Subject Property meets the standards of the new Zoning Ordinance Section 27-4302 (a)(4) with its minimum gross area, location within a Residential base zone, and a conceptual development design with all lots having direct access to a street. The R-PD Zone for this property would allow for a more efficient use of land and higher-quality development while respecting existing environmental habitats and surrounding neighborhood character....

(Exhibit 16)

(9) Applicant provided its explanation as to why development under the old R-R Zone and under the new RR Zone did not work on the subject property:

The current RR Zone permits the same maximum density of 2.17 dwelling units per acre as the prior R-R Zone. Given the net tract area of approximately 62.52 acres, the RR [Z]one would ordinarily result in a maximum of 135 lots, but due to the existing environmental features and development regulations on the oddly shaped property, the actual yield would be significantly reduced to only (at best) 62 lots, with a resulting density of 1.01 dwelling units/acre.

The RR Zone requires a minimum of 20,000 square feet of net lot area and a minimum lot width of 100 feet for single-family detached dwellings. These dimensional standards are ill-equipped to provide for the type of housing that is sought and needed in the area specifically, and the County overall. Two Preliminary Plans, 4-05035 and 4-09042, were originally approved in 2005 and 2011, respectively, and were both valid until December 31, 2021. These preliminary plans have not proven salable since the 20,000-square-foot lot sizes are out of character in the area, and the validity periods for these two approvals have now expired.

To achieve a density comparable to that of the RR Zone, ... the Applicant requests a reclassification /rezoning to the Residential Planned development (R-PD) Zone. The R-PD Zone is more appropriate since it will allow proportional density, net lot area, and dimensional standards to be established with a Planned Development Basic Plan, which will result in a development that meets many of the purposes of the R-PD Zone. The Property meets the standards of Section 27-4302 (a)(4) with its minimum gross area; location within a Residential Base Zone; and a conceptual development design with all lots having direct access to a street. Moreover, the R-PD Zone for this property will allow for a more efficient use of land and higher-quality development while respecting existing environmental habitats and surrounding neighborhood character....

(Exhibits 2(b) and 13, Backup p. 1)

(10) Applicant provided documents and testimony in support of its request that the subject property be rezoned from the RR Zone to the R-PD Zone, including the Basic Plan, Existing Conditions Exhibit, Circulation Plan, Open Space Set-Aside Plan, Conceptual Utility Exhibit, and an Illustrative Exhibit. (Exhibits 22(a)-(e) and 23) The

Basic Plan includes a Development Data Table, General Notes and Development Standards, which set forth the following information:

- The Development Table indicates that there are 62.52 gross acres, 2.51 acres of floodplain, and 60.01 acres of net tract area. It notes that the RR base density is 2.17 dwelling units per acre, which would allow 130 single-family dwelling units to be constructed. The R-PD Zone's base density is 2.50 dwelling units per acre, which will allow approximately 150 dwelling units to be constructed. Applicant is required to set aside 12.50 acres (20% of development) for open space, and Applicant will provide approximately 19.96 acres (32%).
- The Development Standards show that the minimum density will be 1 du/ac and the maximum will be 2.5 du per acre. The minimum net lot area is 2,200 square feet for the attached dwellings and 5,300 square feet for the detached. The minimum lot width at the building restriction line will be 50 feet for the detached dwellings and 28 feet for the attached. The minimum lot width at the street will be 40 feet for the detached dwellings and 28 feet for the attached. The front yard setback depth will be 15 feet for the detached and attached dwellings. The side yard setback depth (one side/total) will be 5 ft/10 ft for the detached dwellings and 0 feet for the attached. The rear yard setback depth will be 15 feet for the detached and attached dwellings. The maximum lot coverage (%) will be 40% for both the detached and attached dwellings. The maximum principal structure building height will be 40 feet for the detached and attached dwellings.
- The General Notes identify the most recent applications for the site; the gross property acreage (62.52 acres); the existing and requested zoning; the subject property's location on the Tax Map and the WSSC grids; the existing Water and Sewer designations (category 3, respectively); note that there is no stormwater management concept number, public utility easement along rights of way, mandatory park dedication, cemeteries on site, or historic site on or in vicinity of the property; notes there are wetlands and 100-year floodplain on site; notes that the site is not within the Chesapeake Bay Critical Area; and notes the site's location within Subregion 6, Planning Area 82A, Rosaryville. The Notes also state that the Basic Plan only "depicts the generalized nature of the development as required by Subtitle 27" and "[f]uture refinements and revisions may occur at time of Preliminary/Final Site Plan, subject to review and approval."

(Exhibit 22(a))

(11) The Basic Plan does not address whether any accessory structures will be allowed, although Applicant did note in its Statement of Justification that it would like to include "permissible accessory structures such as sheds, detached garages, and the like [and temporary] ... onsite construction offices." (Exhibit 2 (b), p. 9) Similarly, it does not provide the "number of residential units (by use type)" as required in Section 27-4301 (d)(1)(C), discussed *infra*.

(12) Mr. Charlie Howe, accepted as an expert in civil engineering, explained the genesis of the instant request:

The Subject Property has been rezoned to the RR zone by the Countywide Map Amendment. The previous R-R zone permitted a maximum density of 2.17 dwelling units/acre. Given the net tract area of approximately 57.69 acres, the R-R zone would ordinarily result in a maximum of 125 lots, but because of the existing environmental features and development regulations on the oddly shaped property, the permitted yield is a mere 62 lots with a resulting density of 1.07 dwelling units/acre.

The previous R-R and proposed RR zones require a minimum of 20,000 sf net lot area and a minimum lot width of 100 ft for single-family detached dwellings. Such large lots are no longer a driving force in the residential market and are predominantly not what residents of Prince George's County are looking for when buying a new home. Instead, proportionally scaled lots and homes within a comprehensively designed community with integral open space and connectivity is a greater model for development, allowing for a more effective environmental stewardship.

To achieve a density comparable to that of the CMA-updated RR zone, a reclassification to the Residential Planned Development Zone (R-PD) is requested. The R-PD zone would allow proportional density, net lot area, and dimensional standards to be established with a PD Basic Plan. The Subject Property meets the standards of the new Zoning Ordinance Section 27-4302 (a)(4) with its minimum gross area, location within a Residential base zone, and a conceptual development design with all lots having direct access to a street. The R-PD Zone for this property would allow for a more efficient use of land and higher-quality development while respecting existing environmental habitats and surrounding neighborhood character....

(Exhibit 16)

(13) Mr. Howe also provided the following testimony on Applicant's behalf:

Ms. Gillette hit on the location of the property and also, just to reiterate, within the property exists an approximately two-acre farm pond and that's going to be utilized for stormwater management, flood control. In addition, the pond will also be utilized as a central gathering place for the benefit of the community, conveniently located with access points from pedestrian walkways and trails. Also, potential amenities such as parks, playground areas, and sitting areas for passive recreation [are] around that existing pond. The proposed development ponds are all located within water and sewer category 3 which is adequate for public connections. Site access is shown from Frank Tippett Road.

As far as some of the existing features, there was a PMA that was delineated and shown on the improved NRI. I'm sure Mr. Allison can elaborate on that as well. We also processed a flood plain delineation which was approved by [DPIE] showing about 2.5 acres within the flood plain, all within the PMA.

Access to the site will have – or available to the site, there will be Pepco, Washington Gas, Verizon, Dry Utilities, and as I mentioned previously, this plan also shows the existing pond that will be utilized for quantity control and flood control.

This plan also outlines stormwater management in ESD facility locations, potential ESD locations that will connect to the storm I outlined on the plan.... [The plan identifies the general location of onsite potable water and wastewater facilities as] I noted ..., and their connections are shown. Also, as mentioned, the 2018 water and sewer plan identifies the proposed development within category 3, the proposed water and sewer connections shown on the conceptual plan that you have up here in Exhibit 22 as well...

The proposed lots will be served by public water and ... public sewer connections. On-site vehicle and pedestrian circulation systems [will] connect to Frank Tippett Road which is classified as a master plan collector road with shared lanes.

The proposed development pods were laid out to fully respect the existing environmental features and steep slopes as shown on the PMA, on the approved NRI. The topography, you know, varies throughout but generally flows either to the north within the PMA areas or to the existing farm pond and stream valleys. The proposed development preserves to the fullest extent practicable the existing environmental features, specifically the streams, slopes, existing ponds, which is a valuable asset to the future community. Views into the environmental features are going to be the focal point in the development along the streets and at the intersections....

(August 9, 2023, T.68-74) Finally, on re-direct Mr. Howe explained why there is only one proposed access to the site:

[B]ased on the limited frontage on Frank Tippett Road we are proposing a single-access there. The access that we're proposing will contain a median within just to have, you know, easy fire access and access to Frank Tippett Road from both sides, but there is one access from Frank Tippett....

[Additional access from Commo Road] would require additional environmental impacts and ... that road is utilized for the county going back through there, but that would require some pretty ... significant environmental impacts and grade changes.

(August 9, 2023 T. 94-95)

(14) Mr. Matthew Muddiman, Land Acquisition Project Manager for D.R. Horton, Inc., was authorized to testify on behalf of the Applicant (August 9, 2023 T.18-19) He first noted that Applicant “has been a home builder in the county for over 20 years” and “has had much success throughout the entire county.” (T.21) He then provided Applicant’s vision for the instant request:

DR Horton's vision for the project is to include a mix of housing types accommodating multiple price points and ages. The community has amenities such as the pond which we intend to enhance and use as a feature along with a centralized gathering space and other space that links the protected environmental features. We also intend to build pedestrian pathways which we'll construct and be linked with various elements of the neighborhood community for the residents to enjoy.

DR Horton is the applicant, the developer, and the home builder, and is in the unique position to carry the vision of this from initial concept through construction.... We intend to complete these homes and create a very thriving and successful community. We expect the community to follow in the tradition of quality and thoughtful land planning that we have successfully constructed in other areas of the county....

(August 9, 2023 T.22-24)

(15) Mr. Muddiman further noted that Applicant agreed with the Statement of Justification submitted on its behalf (Exhibit 2(b)), and with the Planning Board's recommendations. (Exhibit 14(b); August 9, 2023 T.24) Mr. Muddiman also stated that Applicant intends to incorporate green building techniques if the request is approved. (August 9, 2023 T. 25)

(16) Ms. Christine Gillette, accepted as an expert in the area of landscape architecture, testified on the Applicant's behalf. Ms Gillette is familiar with the subject property and has made personal inspections on a few occasions. She prepared the Basic Plan and other site plans that are part of the Application. (August 9, 2023 T.36) She provided the following testimony in support of the request:

[T]his property is roughly triangular in shape with a very narrow frontage on Frank Tippett Road to the east. The northern edge is defined by Commo Road west of its intersection with Frank Tippett Road. The existing community and neighborhood context includes Tippett Estates to the north across Commo Road which is a community of single-family detached homes on approximately one-family detached homes on approximately one-quarter acre lots in the R-R Zone. Abutting the property to the east are a few single-family detached homes on irregular shaped and sized parcels also in the RR [Z]one. Across Frank Tippett Road to the east is Terraco Acres which is also a community of single-family detached homes on approximately one-quarter acre lots, which are in both the RR and RSF-95 [Z]ones.... [T]he entire southwestern boundary of the property is defined by the 930 plus acre Cheltenham Youth Facility in the RR [Z]one which is owned by the state of Maryland.

Into this community pattern the applicant is proposing a development of approximately 130 to 150 units with a mix of single-family detached and single-family attached homes which will be in character with the surrounding subdivisions.... The R-PD [Z]one will allow the property to develop with single-family detached and attached dwellings which are compatible in the area on lot sizes that are more in line with the surrounding lot.



The single-family attached dwelling product proposed will be a 28 to 32-foot wide [,] typically main floor living dwelling that we've referred to as villas, and... these will allow residents to age in place if that's what they need. This villa style unit is typically two stories in height [,] which further aligns in character with both the existing and proposed single-family detached homes.

So, our conceptual land plan for this property has led to the basic plan before you today. There are two pods of proposed dwelling units shown on the basic plan. The blue pod, generally near the property frontage, indicates single-family attached units, and the yellow pod that's woven around the existing environmental features indicates single-family detached units....<sup>3</sup>

So this property's existing farm pond will serve as a unique and valuable central organizing element for this new community. It will be established as a recreation area and gathering place with convenient access through pedestrian walkways and trails....

The R-PD [Z]one facilitates the ability to provide compatible development with the surrounding properties while also providing a mix of housing types within the development which was envisioned in the new zoning ordinance and the Housing Opportunity for All Countywide Housing Strategy 2019 Plan.

The inclusion of the attached villa product is responsive to the needs and requests to offer a dwelling unit type that allows residents to age in place as many of the floor plans offer the main floor living style. The flexibility that is provided by the R-PD [Z]one also allows the applicant and design team to be innovative with variety in single-family detached and attached unit type as well as lot sizes and types to achieve a high quality of development. With this mix of housing styles, sizes and types, the proposal is envisioned as a multi-generational development with home ownership available at a wide price range, accessible to first-time homeowners, those seeking to purchase their golden years home to age in place, and those in between.... [O]pen space essentially converted from large unsustainable private lawns into shared open space. This compact development will allow for a much larger area of the property to be preserved, reducing the impact on the environment....

(August 9, 2023 T. 37-44)

(17) Mr. Steven Allison, accepted as an expert in Arboriculture and Landscape Architecture, testified on Applicant's behalf. He and his firm conducted the Natural Resources Inventory ("NRI") for the site in January 2022. (Exhibit 5; August 9, 2023 T. 80-81) Mr. Allison explained that he performed a "desktop analysis of existing data" using PGAtlas and the Marland Environmental Resources Land Information Network, and

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<sup>3</sup> The witness later noted that the single-family attached pod in blue is approximately 7.4 acres and the single family detached pod is approximately 22 acres.

national wetland inventories, as well as visited the site. After reviewing all applicable laws and evaluating the vegetation, soils, and hydrology on the site, he made the following determinations:

- The site includes two contiguous wetlands equaling 2.19 acres, including the pond. The development's design took into account the wetlands, 100-year floodplain, steep slopes, and various vegetative buffers. (August 9, 2023 T. 81-83)
- The site has 25 acres of forest, and the proposed design will allow the conservation of approximately 12 acres of woodland conservation threshold (20 % of the site). (August 9, 2023, T. 83-84)
- Six forest stands were identified and evaluated. Many of the specimen trees identified are in the regions where the stream valleys are and will, therefore, be protected. (August 9, 2023, T. 84-85)
- The Basic Plan conforms with the environmental policies of the Subregion 6 Master Plan since it protects/preserves/restores the green infrastructure network on site; water quality is enhanced by the maintenance of the forest and the slopes that lead to the water; the Chesapeake Bay is also protected by protecting the forest and the stream areas; green building techniques will be utilized; the woodland conservation threshold will be met; specimen trees will be preserved to the highest extent practicable; and, woodland will be protected by conservation easements. (August 9, 2023 T. 86-89)
- The Basic Plan satisfies the strictures of Sections 27-27-4301(a)(7) since the design focused on the preservation of the site's natural and scenic features such as the stream, the pond, and existing slopes; the topography other environmental features are preserved because the planned development zone allowed more compact development that in turn allows more preservation of the forested stream valley and associated flood plain; and the climate action plan will be further advanced due to all of the above. (August 9, 2023 T. 89-91)

(18) Mr. Matthew Leakan, accepted as an expert in land use planning, prepared the Statement of Justification for the request (Exhibit 2(b)) and testified in support of the Application in pertinent part, as follows:

I am [familiar] with the zoning of the subject property]. The zone is... what I call Euclidean. That is a single use zone, residential, with... what I would call large development standards and intensity standards. Meaning the lot sizes... are quite large. I believe the minimum lot area in the RR zone under the basic parameter is about 20,000 square feet. It's about a half-acre lot... [with] large yards.

And the density for that zone interestingly is... far less than what the general plan recommends. The general plan recommends in the... established communities... low density residential land use designation [of] about 3.5 units

per acre. The RR zone allows density of about 2.17 units per acre. So if you take the gross area of 6.25 acres of the property, that equates to approximately 130 dwelling units or 130 lots.

And I think what's really important about understanding why we're doing an R-PD zone versus what is allowed in the base zone is design flexibility to achieve compact development. The ... land development is generally rectilinearly in nature. The property is a triangle. Beyond that, the property has higher public policy benefits for preservation on environmental needs on the northern portion of the property and so you have a very constrained development area.

And so if one of the policy goals...in the [M]aster [P]lan is to create a compact development so that we can achieve other public policy benefits for open space,[ etc.], we need a smaller development footprint and ... in order to get the development footprint smaller the R-PD zone allows is to reduce [it]... to create a much more fine grained implementation of land development in the neighborhood....

(August 9, 2023 T.111-113)

(19) Mr. Leakan also discussed the General Plan's vision for infill development within the Established Communities, and the 2013 Subregion 6 Master Plan's vision for development within the Developing Tier (the term formerly used for the Established Communities), protecting the green infrastructure and regulated environmental resources, providing sidewalks and trails to promote a walkable community, insulating the attached units with the other detached dwellings to create a high connectivity ration; placing single-family detached homes along the public roads so that the development will be compatible with the existing single-family homes in the area, and the provision of housing choices of intensity and scale consistent with the intensity and scale of adjacent properties, and opined that the Application conformed with both. (August 9, 2023 T. 114-134). He also noted that the development will be compatible with the existing homes since those to the north and northeast are on lots approximately a ¼ acre in size, and the nearest building on the public property to the south (the Cheltenham Youth Facility) is nearly 230 feet -far enough to mitigate any noise or other adverse impact from that use on future residents of the planned development. (August 9, 2023 T. 153-155)

Mr. Leaken opined that the entire development would satisfy the decision standards for approval found in Section 27-3602 (c):

The Property is located in the *2013 Adopted and Approved Subregion 6 Master Plan and Sectional Map Amendment* ("Master Plan" and "SMA"). It is within the Cheltenham area, an area on which the Master Plan is relatively silent. The predominant recommendation for residential land use in this area is Residential Low density, defined as "Residential areas of up to 3.5 dwelling units per acre. Primarily single-family detached dwellings." (p. 40)

Approved before the three-tier system established in the 2002 General Plan for Prince George's County was eliminated (for most purposes) by the 2014 General Plan, *Plan*

*Prince George's 2035* ("Plan 2035"), the Master Plan includes a description and policies for the Developing Tier, which includes the Property. Policies relating to housing include:

### **Policy 1**

Promote a development pattern that allocates appropriate amounts of land for residential, commercial, employment, industrial, and institutional land uses in accordance with county development goals by considering local and regional needs, the integration of land uses wherever possible, and the impact of development proposals on the economy, environment, equity, and efficiency

### **Strategies**

Maintain low to moderate-density land uses except as part of mixed-use development and planned communities. (p. 58)

Plan 2035 placed the Property in the Future Water and Sewer Service Policy Area and the Established Communities Growth Policy Area. Subsequent to the approval of two prior Preliminary Plans, the Property was placed in the W-3 and S-3 Water and Sewer Categories; therefore, it has effectively been moved out of the "Future Water and Sewer Service" policy area and is suitable for development. The Established Communities [are] areas where residential development should be context sensitive infill with a maximum density of 3.5 dwellings per acre. Of course, Plan 2035 ultimately directs us back to the applicable Master Plans for density recommendations. In this case, the Master Plan concurs: its Land Use recommendation is residential density up to 3.5 dwellings per acre.

The proposed development, with densities hovering around the 2.17 dwellings per acre allowed by the RR Zone, well under the maximum of 3.5 dwellings per acre, meets the intent of the Master Plan and Plan 2035 recommendations. It presents a community of single-family detached and attached homes contextually harmonious with surrounding development, both in terms of density and lot sizes.

The purposes of the R-PD Zone are found in Section 27-4302(a)(1) of the Prince George's County Zoning Ordinance and are generally aimed at ensuring that proposed developments use flexibility in design for innovative, high-quality communities complete with onsite complementary nonresidential uses, including recreation facilities, bike and pedestrian networks, and open space, while respecting the environmental features of the property.

This Property, located in the midst of similar residential communities, is perfect for development in the R-PD Zone. While the Property had two Preliminary Plans approved for development with 20,000 square-foot lots, such developments can scarcely provide the type of community the R-PD Zone can, and the latter creates an opportunity to create development neighborhoods that enjoy better design and function than what is typically provided in standard base zone development. (The very reason for the new Zoning Ordinance including planned development zones). The flexibility provided by the R-PD Zone enables the type of development sought

in the County. The proposed Basic Plan shows a development of single family detached and attached homes which, as a result of concentrating allowable density on smaller lots than the RR Zone would permit and in a more focused area than the RR Zone would require, respects the natural environment. It provides active and passive recreational facilities, potentially such as a pocket park, playground area, walking paths, shared bicycle lanes, and sitting areas that would be unsustainable in what the RR Zone development of a property of this size would allow with a fraction of the viable residential units proposed with this Basic Plan.

Finally, the proposed development will not adversely impact the surrounding communities as it is compatible with the surrounding single-family detached residential developments - in that it similarly provides similar densities and lot sizes of single-family detached homes. To the south, is the Cheltenham Youth Facility, a youth correctional facility on 900+ acres with no resulting land use compatibility issues....

(Exhibit 13, Backup pp. 7-8)

### **Agency Comment**

(20) The Maryland-National Capital Park and Planning Commission (“MNCPPC”) Environmental Planning Section provided an extensive review of the request. (Exhibit 13, Backup pp.32-41) It first noted that the site has an approved National Resources Inventory (NRI-010-05-03) and provided the following description of the site:

This site is generally triangular in shape and is mostly wooded. A stream is present on-site, which coincides with the northern property boundary, branching out into the property at two locations. This site was previously used for agriculture and features a farm pond on the eastern portion of the site, which has developed into a wetland area. Floodplain is present on-site in conjunction with the stream system. The site lies within the Middle Potomac watershed, Piscataway Creek. Unsafe soils containing Marlboro Clays or Christina Complexes are not present on-site. The site contains Regulated Areas and Evaluation Areas, as designated on the Countywide Green Infrastructure Plan of the Approved Prince George’s County Resource Conservation Plan (May 2017). The site is located within Planning Area 82A. Based on the Sensitive Species Project Review Area (SSPRA) GIS layer prepared by the Maryland Dept of the Environment, Heritage and Wildlife Service, forest interior dwelling species (FIDS) is present on-site. The site is within a SSPRA and falls within the drainage to Piscataway Creek, which is known to support important fish species, including the state-listed threatened American Brook Lamprey. This site is within a Tier 11 catchment area identified as Piscataway Creek 1 and 2....

(Exhibit 13, Backup p.33)

(21) After reviewing applicable provisions of the 2014 General Plan, the Subregion 6 Master Plan and SMA, the Green Infrastructure Plan of the Approved Prince George’s County Resource Conservation Plan (2017), and applicable provisions of the Zoning

Ordinance, Subtitle 24 and Subtitle 25, the Environmental Planning Section provided the following analysis:

The applicant is proposing to retain the majority of the primary management area (PMA), with impacts proposed to the existing farm pond to convert into a stormwater management (SWM) facility. Woodland on-site shall be retained to the extent practicable and be placed within a woodland conservation easement, and the applicant shall meet the woodland conservation threshold on-site. Impacts to woodlands and PMAs will be evaluated with subsequent development review proposals....

Environmentally sensitive design practices shall be implemented to reduce impacts to the PMA, and adequately buffer the Regulated Areas from the proposed residential development. Impacts to woodlands and PMAs will be evaluated with subsequent development review proposals. The current site plan shows redevelopment of the existing farm pond into a stormwater facility and further improving this area as a recreational amenity. Stormwater design will be evaluated by the Department of Permitting, Inspection and Enforcement (DPIE) during subsequent development review processes. Any proposed impacts to PMA shall be requested at time of preliminary plan of subdivision....

Based on the provided open space set aside plan, the applicant proposes to retain the majority of the PMA within a woodland conservation area. This site is located within a Tier II catchment area, with the majority of the development proposed outside of the Tier II buffer. Retaining the woodland or providing reforestation around the stream is critical to adequately buffer the PMA area. The applicant shall strive to implement or promote alternative lawn care methods. Individual septic systems are not proposed [and] the development will utilize public water and sewer....

(Exhibit 13, Backup pp. 32-37)

(22) The MNCPPC Environmental Planning Section also examined the Application's impact on air quality, noise levels, and resource and energy consumption. It recommended that Applicant "explore the use of alternative energy solutions "and " strive to utilize green building techniques." (Exhibit 13, Backup p. 38) It suggested that energy saving light fixtures be utilized, and that light intrusion on adjacent properties be minimized; and noted that noise and adequate buffers will be added at later stops in the review process. (Exhibit 13, Backup pp. 38-39)

(23) Finally, the MNCPPC Environmental Planning Section addressed specific environmental features and regulations related thereto:

An NRI is required as part of a zoning amendment application per [Section] 27-6802; and approved NRI-010-05-03 covering the land area was included in the application....

The project is subject to the environmental regulations contained in Subtitles 24, 25 and 27. The Woodland Conservation threshold will remain 20 percent with the

proposed R-PD Zone. All future applications will require tree conservation plans in accordance with the current regulations....

A Forest Stand Delineation (FSD) report was submitted as a required document with this ZMA. The FSD indicates that 111 specimen trees are located on-site.... Every effort shall be made to preserve specimen trees to the extent practicable....

There is PMA, comprised of REF, which include floodplain, streams and associated buffers, steep slopes, and wetlands with their associated buffers. Section 27-6808 of the Zoning Ordinance refers to Subdivision Regulation [Section] 24-4300(a), which establishes that subdivisions shall be designed to minimize the impact of development on the land and on REF. Section 24-4303(d)(5) establishes that [ for] land located outside of the Chesapeake Bay Critical Overlay ..., the PPS shall demonstrate the preservation and/or restoration of REF in a natural state, to the fullest extent possible, consistent with the Environmental Technical Manual.... Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required, in accordance with... the Zoning Ordinance ..., for the reasonable development of the lot outside the regulated features. A letter of justification with exhibits shall be submitted for review prior to the acceptance of the PPS, or associated case, for any impacts proposed to REFs,...

A Site Development Concept Plan will be reviewed by the DPIE, and the approved concept shall be submitted for review with the acceptance of the PPS....

The site is within a Tier II catchment area. Tier II waters are high-quality waters within... Maryland, as designated by the Maryland Department of Environment (MDE), that are afforded special protection under Maryland's Anti-degradation policy. A 150-foot-wide expanded buffer is required on-site for all intermittent and perennial streams... Redundant erosion and sediment control measures may be required on the Erosion and Sediment Control Plan...[and][t]he limits of development on the Erosion and Sediment Control Plans must match the limits of development on the Site Development Plan and the tree conservation plans....

The applicant shall strive to meet the woodland conservation requirements [20%] on-site, minimize impacts to PMA and specimen trees; and adequately buffer the on-site stream system from the proposed residential development. Woodland conservation, SWM, specimen trees and PMA shall be evaluated with subsequent development application...

(Exhibit 13, Backup pp 40-41)<sup>4</sup>

(24) The MNCPPC Historic Preservation Section provided the following comment on the Application:

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<sup>4</sup> The Environmental Planning Section recommended two conditions of approval that were included in the recommendations forwarded by the Technical Staff and the Planning Board.

The 2013 *Approved Subregion 6 Master Plan* includes goals and policies related to historic preservation [but none are] specific to the subject site or applicable to the proposed development.

The subject property was surveyed for archeological resources in 2008, Five archeological sites were identified on the property.... All sites were significantly disturbed by plowing and other 20<sup>th</sup> century activities on the property. No intact cultural features were identified in any of the five sites. No further archeological investigations were recommended by the applicant's consultant archeologist due to extensive modern disturbance. Historic Preservation staff concurs....

(Exhibit 13, Backup p.22)

(25) The MNCPPC Department of Parks and Recreation recommended further evaluation of the provision of parkland via land dedication and on-site recreation at the time of subdivision review, reasoning as follows:

The applicant's proposal is for a development of approximately 130-150 units, a mix of single-family detached and attached dwellings, with a density of approximately 2.2 to 2.5 dwellings per acre. Per the applicant's Statement of Justification, the existing pond will be designed within the development to 'serve as a certified gathering place for the community with convenient access through pedestrian walkways and trails. Potential amenities such as a pocket park and playground area provided for active recreation; sitting areas around the existing pond will provide a peaceful respite for passive recreation activities.'

Given the proposed density of the development and the proximity to M-NPPC-owned land, DPR staff recommends the provision of land conveyance and on-site recreation within the development to meet the parkland dedication requirement. DPR is evaluating the western area... of the property, south of [Commo] Road adjacent to the Cheltenham Youth Facility for future conveyance. The land is within the regulated area of the Green Infrastructure Plan, contains moderate to steep slopes, mature forest and is within the Piscataway Creek Watershed. This section of the property is outside of the proposed residential development area. At the time of the evaluation of the Preliminary Plan of Subdivision, DPR staff will review the recommendations and requirements of the R-PD [Z]one, the Subregion 6 Master Plan and SMA, and the Subdivision Regulations as they pertain to the provision of public parks and recreation facilities....

(Exhibit 13, Backup p.26)

(26) The MNCPPC Subdivision Section noted that a new preliminary plan and certificate of adequacy will be required if the request is approved, and the proposed site layout and lotting pattern will be further scrutinized at that time. (Exhibit 13, Backup p.27) It also suggested that the area of passive recreation proposed either be enlarged (as it is less than 10,000 square feet) or other pockets for passive recreation be provided. (Exhibit 13, Backup p. 28).



(27) The MNCPPC Transportation Planning Section evaluated transportation information provided by Applicant and found a net increase in traffic in the adjoining neighborhood (57 additional AM Peak hour trips and 65 additional PM Peak hour trips) if the request is approved. However, it supported the rezoning to the R-PD Zone for the following reasons:

The full effect of the increase in traffic will be evaluated at the time of the preliminary plan of the subdivision phase, of the development review process. At that phase a TIS [Traffic Impact Statement] will be required, and all modes of transportation will be analyzed in detail....

All the subject property falls in the developing tier, which requires sidewalks on both sides of all new internal roads. As development occurs within the proposed area, staff will further evaluate bicycle pedestrian transportation facilities. Staff recommend that the implementation of complete streets be considered [during]...future phases for the subject property. Additionally, staff recommend pedestrian and bicycle facilities be provided consistent with the *Approved Subregion 6 Master Plan and Sectional Map Amendment* pedestrian and bicycle policies, including additional connections and facilities to promote multimodal transportation....

The proposed development will be served by one access point from Frank Tippet Road only. While a single point of access is undesirable, given the number of lots being proposed, the on-site environmental constraints and overall topography make additional points of access a challenge. The initial layout of the site shows a series of nodes and links resulting in a connectivity index of 1.5. Table 27-6206 (f)(1) of the new code shows that this index is deemed acceptable....

(Exhibit 13; Backup pp. 29-31)

(28) The MNCPPC Long-Range Planning Section, Community Planning Division opined that the “application is consistent with the Master Plan and Plan 2035 because [it] ... proposes densities consistent with the Master Plan recommended ‘residential low’ land use and proposes single-family attached and detached homes of similar character to the surrounding community (context sensitive) as prescribed by Plan 2035 for properties in the Established Communities Growth Policy area [,and it ]proposes housing densities allowed in the RR Zone.” (Exhibit 13, Backup p. 43)

(29) After consideration of all of the agency comments, the Technical Staff recommended that the request be approved with two conditions and one consideration. (Exhibit 13, pp. 24-25)

(30) The Planning Board recommended approval, with conditions, of the request for the reasons noted by Applicant and the Technical Staff. (Ex.14 (b)) The Planning Board did a thorough analysis of the Application’s compliance with Section 27-3602 (b)(7)(A) (Review and Recommendation by Advisory Board or Official), Section 27-3602(c)

(Planned Development Decision Standards), Section 27-4301 (a) (General Purposes of Planned Development Zones), Section 27-4301 (d) (General Standards for All Planned Development Zones), Section 27-4302 (a)(1) (Residential Planned Development Zone Purposes), and a brief review of the applicable design standards in Part 6 of the Zoning Ordinance that the Applicant must satisfy if the request is approved. (Exhibit 14(b), pp.3-18) I agree with the Planning Board's analysis of the above-referenced provisions, but only provide a portion of its reasoning herein:

Planning Board's discussion of compliance with the General and Master Plans:

Plan 2035 places the subject property in the Established Communities Growth Policy Area. Established Communities are most appropriate for context-sensitive infill and low-to medium-density development. This Growth Policy area also recommends enhancing existing public services, facilities, and infrastructure throughout these communities....

The subject property is also part of the Future Water and Sewer Service Area. Development in this area is largely determined by the availability and capacity of water and sewer services. The site is currently in water sewer Category 3....

The Subregion 6 Master Plan and SMA [recommend] residential low land use on the subject property. Residential low is described as 'residential areas of up to 3.5 dwelling units per acre consisting of primarily single-family detached dwellings....' The proposed development will contain a maximum of 150 dwelling units, or 2.39 dwelling units per acre. The dwelling types will be a mix of single-family detached and townhouse dwellings....

The proposed ZMA is in conformance with Plan 2035 and the Subregion 6 Master Plan and SMA because the application proposes single-family detached homes and townhouses of similar character and density to the surrounding community, as prescribed by the guidance of Plan 2035, for properties located in the Established Communities Growth Policy Area....

Planning Board's discussion of compliance with Section 27-3602 (b)(7)(A):

The subject application is found to conform with the Planned Development Decision Standards found in Section 27-3602(c) [for reasons set forth on pages 5-7 of Exhibit 14(b)]....

The subject property is currently zoned RR, which requires a minimum of 20,000 square feet of lot area and a minimum lot width of 100 feet for single-family detached dwellings. The allowable density in the RR Zone is 2.17 dwelling units per acre, which would result in 130 single-family dwelling units. The RR Zone also does not permit townhouse dwellings, so there would not be a mix of dwelling types on the site.

The flexibility of the R-PD Zone will allow the applicant to include both single-family detached and townhouse dwellings within the development. The proposed maximum density of 2.5 dwelling units per acre would result in a total of 150 dwellings, only 20 dwelling units above what is permitted in the base RR Zone.

The R-PD Zone will also allow the applicant to develop lots with a reduced lot area and lot width, creating a more compact and inclusive residential development, while working with the existing environmental habitat.

The site contains environmental constraints including streams, wetlands, and floodplain areas. The proposed development is an environmentally sensitive design that preserves and protects the various environmental features of the site. The existing pond will be converted into a stormwater management (SWM) facility. Woodland on-site will also be retained, to the extent practicable, and placed within a woodland conservation easement....

The R-PD Zone will not negatively or adversely affect the subject property or the surrounding neighborhoods....

The site will have one access point off Frank Tippet Road that will lead to the internal street network. The proposed dwelling units, along the north side of the property, will be buffered from the adjacent Commo Road and residential subdivision beyond by landscaped areas and natural environmental features. The portion of the site that directly abuts residential dwellings to the east will have proposed dwellings set further away from the property line, to reduce any potential impacts to the adjacent residential uses....

The proposed R-PD Zone will further the purposes of this Ordinance, the General Plan, and the area master plan. The health, safety, and welfare of the future inhabitants of the development will be protected and promoted by providing high-quality development that features both passive and active recreation amenities. The mix of dwelling types proposed will enhance the established character of the surrounding residential communities and provide options for families of various sizes. The existing pond on-site will serve as a centralized gathering place for the community, with convenient access through pedestrian walkways and trails. Potential amenities, such as a pocket park and playground area, will be provided for active recreation.

The development also ensures the provision of open space, to protect the scenic and natural features surrounding the site. The required open space set-aside amount is 20 percent of the development site area. The proposed basic plan shows that 31 percent of open space will be provided. The subject property is also near ...M-NCPPC... owned Piscataway Creek Stream Valley Park and Cheltenham Park for additional recreation options. Environmentally sensitive design practices shall be implemented, to reduce impacts to the PMA and adequately buffer regulated areas from the proposed residential development.

Several policies outlined in Plan 2035 are furthered by the proposed development [such as ] ... the concentration of future growth (page 14). The proposed development is utilizing the flexibility provided in the R-PD Zone to create a compact residential community, while simultaneously preserving the existing environmental features. The existing pond will be used as a SWM management facility and as a site amenity. A pedestrian pathway will surround the pond to provide active recreation.

In addition, Policy 4 of Plan 2035 (page 113) encourages phasing of ... residential development to coincide with the provision of public facilities and services. Several public facilities will serve the proposed development [including existing parks, fire station, police station, and neighborhood schools] ....

Planning Board's discussion of compliance with Section 27-3602 (c):

The subject property is located within the Subregion 6 Master Plan and SMA, which recommends residential land use... described as 'residential areas of up to 3.5 dwelling units per acre, primarily single-family detached dwellings' (page 40). ... The Subregion 6 Master Plan ... indicates one of the purposes of the plan is 'to implement the policies and recommendations contained in [the prior General Plan concerning properties within the Developing Tier which recommended ] ... low-to moderate-density suburban residential communities, distinct commercial centers, and transit-serviceable employment areas. Growth policies within the Developing Tier encourage compact residential neighborhood design and limit commercial uses to designated centers (Subregion 6 Master Plan and SMA, page 7)....

The purposes of the R-PD Zone ... [are met] by providing flexibility in design, comprehensive pedestrian and bicycle circulations, integrated open spaces, compatibility with the surrounding uses, and environmentally sensitive design features....

[T]he specific uses allowed in an individual R-PD Zone shall be established in the ...PD... basic plan. The proposed ... single-family detached and townhouse dwellings are permitted uses ...[and] are also consistent with the recommended uses in Plan 2035 and the Subregion 6 Master Plan and SMA. The intensity and dimensional standards ... are to be established with the PD basic plan [and] are shown on Sheet 1 ... and conform to the intensity and dimensional standards of the R-PD Zone.

Additional standards ... state that the minimum area must be 20 gross acres, if the gross density is less than 5 units an acre; the property must be located in a residential base zone; and each lot and attached unit in the development shall have direct access to the street. The proposed development meets each of [these] criteria....

The proposed development will not adversely affect the surrounding properties ... [since] applicant proposes a development of 130-150 units consisting of single-family detached and townhouse dwellings [and this]... mix of housing types are compatible with the area, on lot sizes comparable to surrounding lots. The proposed density range of 1.0-2.5 dwelling units per acre will remain in character with the surrounding subdivisions [and] within the [residential low land use density recommended ] which is a maximum of 3.5 dwelling units per acre....

Planning Board's discussion of compliance with section 27-4301(a):

The proposed R-PD Zone will allow for multiple housing types and smaller lot sizes ... [and] allows the flexibility to achieve a density in line with the surrounding area, while concentrating development in a smaller area ... [that] minimizes impacts to the existing environmentally sensitive areas and features...

Residents will be connected to internal and external recreation activities via a multimodal system of streets, bike lanes, and pathways....

The ... development features woodland conservation areas, a trail system surrounding an existing pond, and stream preservation. All residents will have direct access to the active and passive recreation areas....

Approximately 22 acres of open space... are set aside...[and] preserved for woodland conservation ... [and] active and passive recreation... connected to the residential dwellings through a pedestrian and bicycle path network, allowing easy access to community areas....

[This design] ... has allowed the applicant to preserve the natural environmental features of the site....

[This design also allows] minimum lot size areas [that] ... range from 2,200 square feet to 5,300 square feet ...[and] a maximum proposed density of 2.5 dwelling units per acre....

The ... development will be served by one access point ... [and] will include an internal street and sidewalk network for pedestrians and vehicles....

[The character of the established surrounding neighborhoods of Terraco Acres and Tippett Estates and the Cheltenham Youth Facility will be preserved since the] development offers a mix of single-family detached dwellings and townhouses designed to fit into the surrounding community....

The R-PD Zone allows for a more efficient use of land, while keeping in mind the community's vehicular circulation patterns and access.... The on-site vehicular, pedestrian, and bicycle circulation system will connect to Frank Tippett Road, which is classified as a master plan collector road with planned shared lanes....

The site includes floodplain, streams and associated buffers, steep slopes, and wetlands with their associated buffers. The existing pond will feature an on-site trail system for pedestrian use. Woodland on-site shall be retained, to the maximum extent practicable, and be placed within a woodland conservation easement....

#### Planning Board's discussion of compliance with Section 27-4301 (d):

[A]pplicant's Statement of Justification ...[contains its] planning and development [goals] for the proposed development....

The principal used ... will be single-family detached and townhouse dwellings, with permissible accessory structures. No temporary uses are proposed, except for the on-site construction offices. These uses are permitted per Section 27-5101 (e) of the Zoning Ordinance....

Two development pods are proposed.... The number of each dwelling type (single-family detached and townhouse dwellings) is not yet specified, but there will be a maximum of 150 dwelling units, or 2.5 dwelling units per acre. Nonresidential uses include a pocket park, playground area, trails, paths, and sitting areas. The

development is concentrated in approximately 30 acres in the south-central, central, and eastern portions of the property. The remaining +/- 30 acres are proposed to be undisturbed and/or included as open space amenity areas....

The proposed dimensional standards are shown on the basic plan and are consistent with the dimensional standards noted in Section 27-4302(a)(3)....

Landscape buffers will be proposed in subsequent applications, along the property's perimeter, as required by the ... Landscape Manual....

Section 27-6403 of the Zoning Ordinance states that the set aside amount, for residential developments in an R-PD Zone, is 20 percent. The basic plan shows conformance with the requirement, noting the proposed open space set-aside amount, for residential developments in an R-PD Zone, is 20 percent. The basic plan shows conformance with the requirement, noting the proposed open space set-aside as 31 percent....

The general location of environmentally sensitive lands, resource lands, wildlife habitat, and waterway corridors are shown on the basic plan....

The subject property was surveyed for archeological resources in 2008. Five archeological sites were identified on the property.... No intact cultural features were identified among any of the five sites. No further archeological investigations were recommended by the applicant's consultant archeologist due to extensive modern disturbance [and] ... Staff agree[s]....

A circulation exhibit was submitted which shows the proposed development will be served by one access point.... While .. undesirable given the number of lots being proposed, the ...environmental constraints and overall topography make additional points of access a challenge. The initial layout of the site shows a series of nodes and links resulting in a connectivity index of 1.5 ... [which is ] deemed acceptable....

Residents will be connected to internal and external activities via a multimodal system of streets, bike lands, and paths. Staff recommend that the implementation of complete streets be considered during future development applications for the property [and that] ... pedestrian and bicycle facilities be provided, consistent with the ... Master Plan ... pedestrian and bicycle policies, to provide additional connections and facilities that promote multimodal transportation....

The proposed [stormwater management] facilities and their connections are shown on the basic plan....

The on-site drainage facilities and their connections are shown on the basic plan....

The subject property is not located within a municipality. A number of public facilities will serve the development [including] the adjacent Cheltenham Wetlands Park[;]...[the] Cheltenham Woods Community Park and Cheltenham Wildlife Management Area[;] [the MNCPPC's] Piscataway Creek Stream Valley Park 11 [;] Fire Station 840 ...[;] and the Clinton Police Station....

The property is designated water and sewer Category 3, and proposed lots are to be served by public water and sewer connections. The on-site vehicular and pedestrian circulation system will connect to Frank Tippett Road, which is classified as a master-planned collector road, with planned shared lanes. The school-age children of future residents could be served by the Rosaryville Elementary School, the Gwynn Park Middle School, and the Frederick Douglass High School....

Compliance with [the design standards in Part 6 of the Zoning Ordinance] will be fully detailed and evaluated in future stages of the review process [and] no modifications to the development standards are proposed at this stage....

Planning Board's discussion of compliance with Section 27-4302 (a)(1):

The proposed development provides a mix of housing types on the site, including wide townhouse dwellings, otherwise referred to commonly as 'villas'.... The combination of single-family attached and townhouse dwellings will provide the mix of housing types within the development envisioned in the R-PD Zone....

The flexibility provided by the R-PD Zone ...[will allow a] mix of housing sizes and types, [that will be ] accessible to first time homeowners and also those seeking a home to age in place....

The proposed development makes efficient use of land, while keeping in mind the community's vehicular circulation patterns and access, and the impact on the environment. The internal circulation will be provided by public and private roads with a full system of sidewalks, augmenting the connectivity and pedestrian focus with an internal trail system and lake. The on-site vehicular, pedestrian, and bicycle circulation system will connect to Frank Tippett Road, which is classified as a master-planned collector road with planned shared lanes....

The existing pond on-site will serve as a centralized gathering place for the community, with ... pedestrian access through walkways and trails. Additional [recreational] amenities ... for active [and passive] recreation activities [will be provided]....

The development proposes 130-150 dwelling units consisting of a mix of single-family detached and townhouse dwellings, in character with the surrounding subdivisions, with a density of 1.0-2.5 dwelling units per acre.... The R-PD Zone will allow the property to develop with single-family detached and townhouse dwelling units that are compatible to the area, on lot sizes more in line with surrounding lots, and while allowing a density similar to the existing allowable density in the RR Zone....

The proposed development preserves, to the fullest extent practical, the existing environmental features. Specifically, streams and slopes, and an existing pond, are seen as a valuable asset for the future community. Views of the various environmental features are focal points in the development along streets and at intersections....

(Exhibit 14 (b), pp 2-16)

## APPLICABLE LAW

(1) Section 27-4301 (d)(1)(A)-(O) requires, in pertinent part, that the Basic Plan: establish a statement of planning and development goals that is consistent with the General Plan, applicable master or sector plan, and the purposes of the PD Zone; establish the specific principal, accessory, and temporary uses to be permitted, consistent with the purposes/standards, etc., of the PD Zone, the specific standards identified in the PD Basic Plan, and the Use Tables in Part 5 of the Zoning Ordinance; establish the general location of each development area in the zone, its acreage, types and mix of land uses, number of residential uses by type, and residential density consistent with the general purposes and specific requirements of the PD Zone; establish the dimensional standards of the PD Zone consistent with the other requirements of the Zone and its purposes; where relevant, establish standards and requirements that ensure development on the periphery be compatible with the adjacent existing or approved development; establish the general amount, location and type of open space consistent with the purposes of the zone; identify the general location of environmentally sensitive lands, resource lands, wildlife habitat, waterway corridors, and ensure protection thereof consistent with the purposes of the zone and the requirements of Subtitle 27; identify onsite and adjacent historic sites and districts and archeological/cultural resources; identify onsite pedestrian/bicycle/transportation circulation systems and how they connect with off-site systems in ways consistent with the purposes of the zone and with the requirements of Subtitle 27; identify the general location of on-site potable water and wastewater facilities, and on-site storm drainage facilities, and how they connect to existing and planned County and regional systems in a manner consistent with the purposes of the zone and the requirements of Subtitle 27; identify the general location and layout of all other on or off-site public facilities serving the development and how they are consistent with the purposes of the individual PD Zone; establish provisions as to how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development; and, establish the development standards for the site in accordance with Section 27-4301(d)(2) of the Zoning Ordinance.

(2) The District Council may not approve the instant request unless Applicant presents sufficient credible evidence that the following strictures found in Sections 27-1300, 3602 (b)(7) and (c), 4301, and 4302, and applicable provisions of Part 6 of the Zoning Ordinance are satisfied. These Sections provide, in relevant part, as follows:

### Sec. 27-1300 General Purpose and Intent

The purposes of the Zoning Ordinance are to:

- (a) Protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;
- (b) Implement the General Plan, Area Master Plans, Sector Plans, and Functional Master Plans;
- (c) Promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;



- (d) Guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;
- (e) Support pedestrian-friendly, higher-intensity, mixed-use development in the appropriate locations, including support and emphasis upon a framework for multi-modal forms of mobility for pedestrians, bicyclists, transit users, and motorists;
- (f) Support redevelopment and infill development within established areas of the County;
- (g) Provide adequate light, air, and privacy;
- (h) Encourage economic development activities that provide desirable employment and a broad, protected tax base;
- (i) Ensure a high level of quality development in general, for the benefit of all citizens and residents, throughout the County;
- (j) Promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;
- (k) Protect the established character of residential communities and neighborhoods;
- (l) Protect the County from fire, flood, panic, and other dangers;
- (m) Provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;
- (n) Prevent the overcrowding of land;
- (o) Protect the rural character of the County in designated, appropriate locations;
- (p) Ensure the provision of open space to protect scenic beauty and the natural features of the County, as well as provide adequate recreational space;
- (q) 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; and
- (r) Protect and conserve the agricultural industry and natural resources.

**27-3602 Planned Development (PD) Zoning Map Amendment**

**b. Planned Development (PD) Zoning Map Amendment Procedure**

**7. Review and Recommendation by Advisory Board or Official**

- \* \* \* \* \*
- (A) The Planning Board shall make a recommendation on the application in accordance with Section 27-3602(c), Planned Development (PD) Decision Standards, and transmit its recommendation to the ZHE. The Planning Board may suggest revisions to the PD Basic Plan and PD Conditions of Approval. The Planning Board’s recommendation shall address:
    - (i) Whether the application complies with Section 27-3602(c), Planned Development (PD) Decision Standards;
    - (ii) The need and justification for the PD zone;
    - (iii) The effect of the PD zone, if any, on the land subject to the proposed PD and on surrounding neighborhoods; and
    - (iv) The relationship of the proposed PD zone to the purposes of this Ordinance, the General Plan, and the applicable Area Master Plan or Sector Plan, with appropriate consideration as to whether the proposed PD zone will further the purposes of this Ordinance, the General Plan, and the applicable Area Master Plan or Sector Plan.
  - (B) After the receipt of the Planning Board’s recommendation, the ZHE shall hear the case at a public hearing and make a recommendation. The ZHE shall issue its decision not more than one hundred (100) days after the date of its last hearing on the application. The ZHE shall, following the ZHE’s Rules of Procedure, consider the original application, relevant support materials, the

Technical Staff Report, the Planning Board’s recommendation, the applicant’s and any party of record’s testimony and materials (if appropriate), and any public comments, as appropriate. At the conclusion of the hearing, the ZHE shall make a recommendation on the application in accordance with Section 27-3602(c), Planned Development (PD) Decision Standards.

- (C) After the hearing is concluded, the ZHE shall prepare and serve upon all persons of record a written decision containing specific findings of basic facts, conclusions of law, and a recommended decision.

\* \* \* \* \*

**(c) Planned Development (PD) Decision Standards**

Prior to the approval of the PD zone, the applicant shall demonstrate to the satisfaction of the District Council that the entire development:

- (1) Is in conformance with the General Plan, the applicable Area Master Plan or Sector Plan, or any applicable Functional Master Plan;
- (2) Meets the purposes of the proposed PD zone;
- (3) Satisfies all applicable standards of the proposed PD zone; and
- (4) Will not adversely impact the surrounding properties.

**27-4301. General Provisions for All Planned Development Zones**

**(a) General Purposes of Planned Development Zones**

The Planned Development (PD) zones are established and intended to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and other County goals and objectives by:

- (1) Reducing the inflexibility of zone standards that sometimes results from strict application of the zone development, form, and design standards established in this Ordinance;
- (2) Allowing greater freedom and flexibility in selecting:
  - (A) The form and design of development;
  - (B) The ways by which pedestrians, bicyclists, transit users, and motorists circulate;
  - (C) The location and design of the development respective and protective of the natural features of the land and the environment;
  - (D) The location and integration of open space and civic space into the development; and
  - (E) Design amenities.
- (3) Where appropriate, allowing greater freedom in providing a well-integrated mix of uses in the same development, including a mix of nonresidential development, housing types, lot sizes, and densities/intensities;
- (4) Allowing more efficient use of land, with coordinated and right-sized networks of streets and utilities;
- (5) Promoting development forms and patterns that respect the character of established surrounding neighborhoods and other types of land uses;
- (6) Improving community services and facilities and enhancing functionality of vehicular access and circulation; and
- (7) Promoting development forms that respect and take advantage of a site’s natural, scenic, and man-made features, such as rivers, lakes, wetlands, floodplains, trees, historic features, and cultural and archeological resources.

**(b) Classification of Planned Development Zones**

Land shall be classified into a PD zone only in accordance with the procedures and requirements set forth in Section 27-3602, Planned Development (PD) Zoning Map Amendment.

**(c) Organization of Planned Development Zone Regulations**

Section 27-4301(d), General Standards for All Planned Development Zones, sets out general standards applicable to all types of PD zones. Section 27-4302 through Section 27-4304 sets out for each of the different types of PD zones, a purpose statement, a list of the types of form, intensity, dimensional, development, and design standards to be applied as part of the PD Basic Plan and PD Conditions of Approval, and references to applicable use and other standards.

**(d) General Standards for All Planned Development Zones**

Before approving a PD zone classification, the District Council shall find that the application for the PD zone classification, as well as the PD Basic Plan and Conditions of Approval, comply with the following standards:

**(1) PD Basic Plan**

The PD Basic Plan shall:

- (A) Establish a statement of planning and development goals for the zone that is consistent with the General Plan and the applicable Area Master Plan or Sector Plan and purposes of the PD Zone;
- (B) Establish the specific principal, accessory, and temporary uses permitted in the zone. They shall be consistent with the Principal Use Tables (and may only be selected from uses identified as Allowable in the desired PD zone) in Section 27-5101(e), Principal Use Table for Planned Development Zones, and the purposes of the particular type of PD zone, and be subject to applicable use-specific standards identified in the PD Basic Plan, and any additional limitations or requirements applicable to the particular type of PD zone;
- (C) Establish the general location of each development area in the zone, its acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity. The residential density and nonresidential intensity shall be consistent with the general purposes of the PD zone and the specific requirements of the individual PD zone;
- (D) Establish the dimensional standards that apply in the PD zone. The dimensional standards shall be consistent with the requirements of the individual PD zone, and its purposes;
- (E) Where relevant, establish the standards and requirements that ensure development on the perimeter of the PD zone is designed and located to be compatible with the character of adjacent existing or approved development. Determination of compatible character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, form and design features, location and design of parking facilities, hours of operation, exterior lighting, siting of service areas, and any other standards deemed appropriate by the District Council;
- (F) Establish the general location, amount, and type (whether designated for active or passive recreation) of open space, consistent with the purposes of the individual PD zone;
- (G) Identify the general location of environmentally sensitive lands, resource lands, wildlife habitat, and waterway corridors, and ensure protection of these lands consistent with the purposes of the individual PD zone and the requirements of this Ordinance;
- (H) Identify the general location of existing on-site and adjacent historic sites and districts and archeological and cultural resources;
- (I) Identify the general on-site pedestrian circulation system, including any existing on-site and adjacent pedestrian circulation systems (pedestrian and bicycle pathways, and trails), and how it will connect to off-site pedestrian systems in ways that are consistent with the purposes of the individual PD zone, and the requirements of this Ordinance;
- (J) Identify the general design and layout of the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit corridors, and how they interface with the pedestrian circulation system, and connect to existing and planned County and regional systems in a manner consistent with the purposes of the individual PD zone, and the requirements of this Ordinance;

- (K) Identify the general location of on-site potable water and wastewater facilities, and how they will connect to existing and planned County and regional systems in a manner consistent with the purposes of the individual PD zone, and the requirements of this Ordinance;
- (L) Identify the general location of on-site storm drainage facilities, and how they will connect to existing and planned County systems, in a manner consistent with the purposes of the individual PD zone, and the requirements of this Ordinance;
- (M) Identify the general location and layout of all other on-site and off-site public facilities serving the development (including any municipal public facilities, when the subject property is located within a municipality), and how they are consistent with the purposes of the individual PD zone. The other on-site and off-site public facilities considered shall include—but not limited to—parks, schools, and facilities for fire protection, police protection, EMS, stormwater management, and solid waste management;
- (N) Establish provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;
- (O) Establish the development standards that will be applied to development in accordance with Section 27-4301(d)(2), Development Standards.

### **(2) Development Standards**

The development standards in [PART 27-6: Development Standards](#) and the Landscape Manual, shall apply to all development in each PD zone. Development standards (but not the Landscape Manual; modifications to the Landscape Manual may only be made pursuant to Alternative Compliance or a major departure) may be modified as indicated in Table 27-4301(d)(2): Modification of Development Standards, if consistent with the relevant Area Master Plan or Sector Plan, the purposes and requirements of the individual PD zone, and any other applicable requirements of this Ordinance. To the extent a standard in [PART 27-6: Development Standards](#), conflicts with a standard in [Section 27-4302, Residential Planned Development Zones](#); [Section 27-4303, Transit-Oriented/Activity Center Planned Development Zones](#); or [Section 27-4304, Other Planned Development Zones](#), the standard in [Section 27-4302, Section 27-4303, or Section 27-4304](#) shall apply. [Table omitted]

### **(3) PD Conditions of Approval**

- (A) The PD Conditions of Approval shall include, but not be limited to:
  - (i) Conditions related to approval of the application for the PD zone classification;
  - (ii) Conditions related to the approval of the PD Basic Plan, including any conditions related to the form and design of development shown in the PD Basic Plan;
  - (iii) Provisions addressing how public facilities (transportation, potable water, wastewater, stormwater management, and other public facilities) will be provided to accommodate the proposed development, in accordance with any Certificate of Adequacy required under [Subtitle 24: Subdivision Regulations](#). The provisions shall include but not be limited to:
    - (aa) Recognition that the applicant/landowner will be responsible to design and construct or install required and proposed on-site and off-site public facilities in compliance with applicable municipal, County, State, and Federal regulations; and/or
    - (bb) The responsibility of the applicant/landowner to dedicate to the public the rights-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable municipal, County, State, and Federal regulations.
  - (iv) Provisions related to environmental protection and monitoring (e.g., restoration of mitigation measures, annual inspection reports);
  - (v) Identification of community benefits and amenities that will be provided to compensate for the added development flexibility afforded by the PD zone;

(vi) Identification of minor deviations not materially affecting the PD zone’s basic concept or the designated general use of the land within the zone, that may be approved by the Planning Director in accordance with Section 27-3602(b)(11)(G), Minor Deviations; and

(vii) Any other provisions the District Council determines are relevant and necessary to the development of the planned development.

(B) All Conditions of Approval shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding lands.

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27-4302. Residential Planned Development Zone

(a) Residential Planned Development (R-PD) Zone

(1) Purposes
The purposes of the Residential Planned Development (R-PD) Zone are: (A) To provide flexibility for the design of innovative, high-quality, planned residential communities that include a mix of residential use types along with a range of complementary and mutually supporting nonresidential land uses that serve the needs of the residents of the development; (B) To ensure and support the development of comprehensive pedestrian and bicycle circulation networks, which are separated from vehicular roadways and link residential, commercial, open space, and recreation areas; (C) To preserve and support well-integrated open spaces and recreation facilities for the use of the residents of the planned residential community; (D) To ensure that the planned residential community is developed in a manner that does not adversely impact the surrounding communities; and (E) To ensure the planned residential community respects the topographic and other environmental characteristics of the site on which it is located.

<b>2. Use Standards</b>
The specific principal, accessory, and temporary uses allowed in an individual R-PD Zone shall be established in the PD Basic Plan (see Section 27-4301(d), General Standards for All Planned Development Zones). Uses shall be consistent with the applicable Area Master Plan or Sector Plan, and the purposes of the R-PD zone.

<b>3. Intensity and Dimensional Standards (1)</b>		
<b>Standard (1)</b>		
Density, min. (du/net lot areas)	All Uses	1.00
Density, max. (du/net lot area)	To be established in PD Basic Plan (see Section 27-4301(d))	
Net lot area, min. (sf)		
Lot width, min. (ft.)		
Lot coverage, max. (% of net lot area)		
Front yard depth, min. (ft.)		
Side yard depth, min. (ft.)		
Rear yard depth, min. (ft.)		
Principal structure height, max. (ft.)		
<b>NOTES:</b> sf = square feet; ft. = feet; du = dwelling unit; ac = acre		
1. See measurement rules and allowed exceptions in Section 27-2200, Measurement and Exceptions of Intensity and Dimensional Standards.		

4. Other Standards		
Minimum Area Threshold	The minimum area for an R-PD zone is:	<ul style="list-style-type: none"> <li>• 20 gross acres if the proposed gross density is less than 5 units an acre</li> <li>• 10 gross acres if the gross density is 5 to 8 units an acre</li> <li>• 5 gross acres if the gross density is greater than 8 units an acre</li> </ul>
Location Standards	An R-PD Zone shall only be approved if the property is located in a Residential base zone.	
Street Access	Each lot and attached unit in the development shall have direct access to a street.	

(3) Section 27-6104 identifies the development standards that apply to certain development within the County. This Section includes a Table that states that the “construction of a new single-family detached, single-family attached, or two-family dwelling” must address the design standards in Sections 27-6300 (Off street parking and loading standards), 27-6500 (landscaping standards), 27-6600 (fence and wall standards), 27-6700 (exterior lighting), 27-6800 (environmental protection and noise control standards), 27-61200 (Neighborhood compatibility standards), 27-61500 (signage standards), and 27-61600 (green building standards). Construction of new townhouses are subject to all of the preceding standards and to those found in Sections 27-6200 (roadway access mobility, and circulation standards), 27-6400 (open space set asides), 27-6903 (multifamily, townhouse, and three-family standards), and 27-61200 (neighborhood compatibility standards). However, Table 27-6104 (Applicability of Development Standards), expressly notes “[w] here the general standards within this [Part] conflict with specific use standards specified in this Subtitle, the standards applicable to the specific use shall apply.”<sup>5</sup> Section 27-6105 (Timing of Review), provides that the PD Basic Plan may amend many of the development standards within Part 6 to set new design standards, subject to the approval of the District Council. The Basic Plan may not amend the requirement to meet the Neighborhood Compatibility Standards and the Green Building Standards.

**CONCLUSIONS OF LAW**

(1) The recently revised Zoning Ordinance includes several provisions applicable to the instant request. It is simpler to address each in non-numerical order, and some findings will be applicable to more than one Section of the Ordinance.

**Consistency with the applicable purposes for the Zone**

(2) Section 27-1300 sets forth the general purposes of the Zoning Ordinance, Section 27-4301 (a) sets forth the general purposes of all Planned Development Zones, and Section 27-4302((a) (1) sets forth the specific purposes of the R-PD Zone. Section 27-

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<sup>5</sup> Sections 27-61300 (agricultural compatibility standards) and 27-61403 (urban agriculture compatibility) are inapplicable as there are no existing agricultural or urban agriculture uses in the area of the site.

3602(b)(A)(iv) requires the Planning Board to address whether the instant Application furthers these purposes<sup>6</sup>. After a review of the Planning Board's recommendation, all exhibits submitted, and testimony provided, I would agree that the purposes set forth in these Sections of the Zoning Ordinance are met, since:

(a) The request: will provide a mix of housing types designed in a manner that preserves/protects the environmental features on the site, and therefore protects/promotes the public health, safety, comfort, convenience, and welfare of the present and future inhabitants of the County; provides infill development that is compatible with the surrounding dwellings and public land; said development falls well within the densities recommended in the General Plan and Subregion 6 Master Plan; the Applicant will be required to protect/preserve all environmental resources and to follow the provisions within the Green Infrastructure Plan, Subtitle 24 and Subtitle 25; the development will have to satisfy all applicable provisions of the Zoning Ordinance, Building Code, Subdivision Regulations and other laws thereby ensuring adequacy of light, air and privacy, prevention of the overcrowding of land, protection from fire, flood and other dangers, provision of open space, adequacy of public facilities, and provision of multi-modal forms of mobility for pedestrian, exerciser, and motorist. (Section 27-1300)

(b) The request reduces the inflexibility of the RR Zone standards because it will allow attached "villas" and detached single-family housing and smaller lot sizes. (Section 27-4301(a)(1)) As a result, Applicant will have greater freedom and flexibility in the form of the homes and design while protecting more of the natural features on the irregularly-shaped parcel; will be able to utilize an existing pond for both stormwater protection and as a recreation amenity; streams, slopes and the existing pond are preserved to the fullest extent practicable; views into the environmental features are focal points in the development; approximately 22 acres of open space (31 percent of the site) are set aside, most of which preserved for woodland conservation; the residents will be connected to the internal and external recreation activities via a multimodal system of sidewalks, streets and bike lanes; and Applicant will offer a villa style home with main floor living, thereby allowing residents to age in place. (Section 27-4301(a)(2)) Applicant is providing a mix of residential uses, which complement the adjacent housing with a range of lot sizes and housing types. (Section 27-4301(a)(3)) The development will be served by one access point from Frank Tippett Road, due to the irregular size of the site and environmental constraints; however, adequacy will be addressed at the time of subdivision. The Technical Staff has indicated that the layout of the site on the Basic Plan reveals a series of nodes and links that result in an acceptable connectivity index of 1.5 and the circulation and conceptual utility exhibits indicate the land will be used efficiently and in a manner that preserves the pond located roughly in the center of the site. (Sections 27-4301 (a)(4) and (6)) The subject property is located adjacent to the existing Terraco Acres and Tippett Estates on approximately one-quarter acre lots, a few single-family detached homes, and the 930+/- acre Cheltenham Youth Facility, and the housing products proposed (with net lot area ranging from 2200-5300 square feet) will respect the character of this

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<sup>6</sup> While on its face this Section is one that the Planning Board must address, both the ZHE and the District Council must review this Section in order to consider the Planning Board's recommendation in arriving at their respective recommendation and decision.

neighborhood.(Section 27-4301 (a)(5)) The Basic Plan takes advantage of the site's features as it preserves the old agricultural pond, using it as passive recreation and to provide stormwater protection. (Section 27-4301(a)(7))

(c) The R-PD Zone allows Applicant the flexibility to provide a mix of residential use types and recreational amenities that will serve the future residents of the development. (Section 27-4302(a)(1)(A)) The application includes the pedestrian and bicycle circulation separate from the vehicular rights-of-way that link to the pond and to the other developments. (Section 27-4302(a)(1)(B)) The design of the site preserves open space and access to the pond for use by the residents of the planned residential community. (Section 27-4302 (a)(1)(C)) The density, types of housing, and other dimensional standards ensure that the Application will not adversely impact the surrounding communities. (Section 27-4302 (a)(1)(D)) The site is designed to respect the topography, the existing pond, many of the specimen trees, and all other environmental characteristics on site. (Section 27-4302 (a)(1)(E))

### **General Provisions for all Planned Development Zones**

(3) The Application's compliance with the purposes for all Planned Development Zones was addressed, *supra*. (Section 27-4301(a)) The District Council is required to find that the Basic Plan satisfies the standards in Section 27-4301(d)(A)-(O), and can do so if certain conditions are addressed. The Basic Plan must establish a statement of planning and development goals consistent with the General and Master Plans, and the purposes of the zone. Applicant's Statement of Justification addresses these requirements, as noted above and within the statement (Exhibit 2(b)) but the Statement should be an addendum to the Basic Plan. (Section 27-4301(d)(1)(A)) The Basic Plan establishes the principal uses, but only the Statement of Justification discussed the possibility of certain accessory and temporary uses in the development. (Section 27-4301 (d)(1)(B)) The Basic Plan establishes the general location of the development area, its acreage, its types and mix of land uses, residential density, and the dimensional standards to be applied. The dimensional standards further the purposes because they are compatible with and will not adversely impact the surrounding community. The Basic Plan buffers the attached dwellings from the few adjacent single-family houses by placing most within the interior and with landscaping. However, the Basic Plan does not provide the number of residential dwellings by use types -rather it provides a proposed minimum and maximum number for all dwellings. (Section 27-4301(d)(1)(C)-(E)) The Basic Plan establishes the general location, amount, and type of open space and in a manner consistent with the purposes of the R-PD Zone. (Section 27-4301(d)(1)(F)) Environmentally sensitive lands, waterways, and resources are identified and protected, consistent with the purposes of the R-PD Zone and the requirements of the Zoning Ordinance. (Section 27-4301(d)(1)(G)) There are no longer any existing archeological or cultural resources on site and no adjacent historic sites or districts. (Section 27-4301(d)(1)(H)) The transportation, pedestrian, and bicycle circulation systems and connection to off-site systems consistent with the purposes of the R-PD Zone and the Zoning Ordinance are provided. (Section 27-4301(d)(1)(I)-(J)) The Basic Plan generally identifies the general location of the proposed stormwater management facilities and the



general location of storm drainage facilities on site. (Section 27-4301(d)(1)(K)-(L)) The property is served by a number of public facilities: the Cheltenham Park and the Piscataway Stream Valley Park are nearby, and there are neighborhood schools, a fire department and a police department in the vicinity. The property is served by public water and sewer. The subject property does not lie within or near the boundaries of any municipality. (Section 27-4301(d)(1)(M)) The subject property is in Water and Sewer Category 3. Applicant provided an on-site circulation plan that shows how the property will safely connect to the adjacent Frank Tippet Road, a master plan collector. At this point, the development will add less than 70 additional vehicular trips during either peak hour, but transportation adequacy, as well as adequacy of other public facilities will be fully fleshed out at the time of subdivision review.(Section 27-4301 (d)(1)(N)) The development standards referenced in Section 27-4301(d)(2) are those found in Part 6, and the ones applicable to this request are mentioned *supra*. They will be applied at future stages in the development if the request is reviewed. However, the record does address the plans for off-street parking, open space set-asides, and environmental protection. Part 6 requires all applications to satisfy the Neighborhood Compatibility and Green Building standards and modifications are prohibited. I recommend a condition that would mandate that the universal design criteria within the green building standards be utilized, and that should not be considered a modification of those standards. ((Section 27-4301(d)(1)(O))

### **Specific Provisions for R-PD Zone**

(4) The Application's compliance with the purposes for the Residential Planned Development Zone is addressed, *supra*. (Section 27-4302(a)(1)) The principal uses are established in the instant Basic Plan, and the temporary or accessory uses are not, as addressed, *supra*. (Section 27-4302(a)(2)) The intensity and dimensional standards are provided in the Basic Plan and described earlier. (Section 27-4302 (a)(3)) Finally, the site has over 62 gross acres and will have a gross density of less than 5 units an acre, it is located in a residential base zone, and each lot and attached unit will have direct access to a street. (Section 27-4302 (a)(4))

### **Planned Development Map Amendment submittal requirements and Review by Advisory Board or Official**

(5) The Applicant was required to submit statements, plats, drawings, etc., and a Basic Plan that addressed all requirements set forth in Section 27-4300. For the most part, this was accomplished. (Section 27-3602(a))

(6) Prior to approval, the Planning Board had to address whether the request satisfied the decision standards in Section 27-3602 (c) and the criteria set forth in Section 27-3602 (b)(7)(A)(i)-(iv). I concur with the Planning Board's finding that these criteria were met, for the reasons noted by the Planning Board in its resolution and for the following reasons:

- Section 27-3602 (b)(7)(A)(i) requires a finding that the application complies with the Planned Development Decision Standards found in Section 27-3602(c)(1)-(4). Section 27-3602 (c)(1) is met since: the General Plan and the Subregion 6 Master Plan both recommended residential low land use of the property, defined in the Master Plan as residential areas of up to 3.5 dwelling units per acre and primarily single-family detached dwellings, and defined in the General Plan as residential areas of up to 3.5 dwellings per acre, and the Basic Plan indicates that Applicant will construct 2.50 dwelling units per acre, thereby conforming with both Plans; Section 27-3602(c)(2) is met since the application meets the purposes of the R-PD Zone, in particular, and the purposes of all PD Zones, in general, for the reasons noted above, and in the Planning Board's Resolution; Section 27-3602(c)(3) is met since the standards for the R-PD Zone found in Section 27-4302 (a)(3) will be addressed in a condition of approval proposed below; and, Section 27-4302 (a)(4) is met since the intensity and dimensional standards are shown on the Basic Plan (minimum density of 1 du/acre; maximum density of 2.5 du/acre; minimum net lot area of 5,300 sq ft for single-family detached dwellings and 2,200 square feet for single-family attached dwellings; minimum lot width at the building restriction line of 50 feet for single-family attached dwellings and 28 feet for single-family attached dwellings; a minimum lot width at the street of 40 feet for single-family detached dwellings and 28 feet for single-family attached dwellings; a front yard setback depth of 15 feet for single-family attached and detached dwellings; a side yard setback depth (one side/total) of 5 ft/10 ft for single-family detached dwellings and 0 ft for single-family attached dwellings; a maximum lot coverage of 40% for single-family detached and attached dwellings; and a maximum principal structure building height of 40 ft for single-family attached and detached dwellings) and the minimum acreage of 20 acres for gross density of less than 5 dwelling per units is exceeded (the subject property is approximately 62 acres), the base zone for the subject property is the RR Zone; and each lot and attached unit in the development will have direct access to a street. Section 27-3602 (c)(4) is met and the development will not adversely impact the surrounding properties since:
- Section 27-3602 (b)(7)(A)(ii) is met since the Applicant provided a need and justification for the R-PD Zone. The density allowed in the base zone can not be met due to the environmental constraints on the site. The R-PD Zone will allow development that protects the pond and other environmental features of the site and allows applicant to construct attached and detached housing that takes advantage of these constraints by turning the pond into an amenity as well as a stormwater feature, saving most of the specimen trees, adding multimodal circulation including sidewalks that may be enjoyed by the existing residents, and introducing a housing type that will allow residents to age in place.
- Section 27-3602 (b)(7)(A)(iii) is met since the effect of the R-PD Zone on the subject property and the surrounding neighborhoods was addressed and found to not be deleterious on either. The homes will be designed to complement the area, and the attached housing will generally be to the interior of the site or heavily landscaped where near existing houses. Standards within Part 6 of the Zoning

Ordinance will also require neighborhood compatibility. Applicant will also use green building standards, including universal design standards if the condition is acceptable to the District Council.

- Section 27-3602 (B)(7)(A)(iv) is met since the Application furthers the purposes of the Zoning Ordinance, the General Plan, and the Subregion 6 Master Plan as noted above.

## **District Council**

(7) The District Council must also find that the Applicant demonstrated compliance with the Decision Standards set forth in Section 27-3602(c)(1)-(4). I believe the District Council may so find for the reasons discussed in detail in the Planning Board's Resolution and those set forth above, and if the conditions/consideration addressed below are imposed.

(8) The Development Standards in Part 6 will be addressed during the later stages of review if the instant request is approved. While the District Council may modify certain standards within Part 6 if consistent with the relevant Plans, the purposes of the PD Zone, and any other applicable requirement, the District Council may not modify the Environmental Protection and Noise Control Standards or the Green Building Standards. I do not suggest that these standards be modified but I do believe the District Council should impose a condition that Applicant accumulate at least 0.75 of the minimum required points found in the Green Building Standards by providing universal design features set forth in Table 27-61603(b) in at least 33% of the dwellings in the development since Applicant agreed in its Statement of Justification that it would apply such principles; Applicant cited the ability to "age in place" as justification for the rezoning; and this is the type of condition envisioned in Section 27-4301(d)(3) of the Zoning Ordinance ("condition related to the form and design of development" and "community benefit/amenities ... to compensate for the added development flexibility").

(9) I also believe the District Council should require the Basic Plan to show the total number of attached and detached dwellings, or at least the maximum number of each, since: the Basic Plan is required to do so pursuant to Section 27-4301 (d), and because attached housing is not in the area so a finding that the development will not adversely affect the neighborhood might be jeopardized if the development were to change to one with attached housing as the predominant use.

(10) I would therefore recommend that the Application be approved as it generally satisfies all applicable provisions of law, once certain conditions, noted below, are satisfied.

## RECOMMENDATION

I recommend Approval of ZMA -2022-003, subject to the following conditions and consideration:

1. Prior to certification of this Zoning Map Amendment:
    - a. The Applicant shall attach a copy of the Statement of Justification to the Basic Plan since the statement of planning and development goals for the R-PD Zone consistent with the General and Master Plans must be part of the PD Basic Plan.
    - b. Applicant shall revise the Development Data Table of the Basic Plan to reference the maximum number of attached and detached dwelling units to be constructed, or to list the actual number of each dwelling type to be constructed, and the number of attached dwellings shall not be equal to, or greater than the number of detached dwelling units.
    - c. The Applicant shall correct the open space set side exhibit to include the existing farm pond primary management area as part of the natural features.
    - d. Applicant should also revise the Basic Plan to list any accessory structures such as sheds, or detached garages, or temporary structures, such as an onsite construction office during development, if it would like the District Council to allow such uses.
  2. At the time of preliminary plan of subdivision:
    - a. The woodland conservation threshold of 20 percent shall be met on-site.
    - b. The Applicant shall procure an extension of the Stormwater Management Concept Plan (42748-2004-02) approved by the Prince George's County Department of Permitting, Inspections and Enforcement on December 19, 2013, that expired on December 19, 2016.
    - c. The Applicant shall provide a detailed exhibit depicting all passive and active recreation amenities.
  3. At the time of Detailed Site Plan the Applicant shall apply universal design standards, found in Part 6 of the Zoning Ordinance, to 33% of the dwelling units in recognition of the goal to enable seniors or the disabled to age in place.
1. Consideration:

Additional areas for passive recreation should be incorporated into the site design, or the proposed passive recreation areas should be enlarged and centrally located for easy access to all residents. The project will be required to demonstrate mandatory dedication of parkland, at the time of preliminary plan of subdivision, which may be met through land dedication, fee-in-lieu, and/or private recreational facilities.

(Note: The Basic Plan and attachments are Exhibits 22(a)-(e) and 23.)