

Edmund M. Pollard \* BEFORE THE  
 Joyce E. Adcock \* PLANNING BOARD OF  
 Petitioners and Owners \* HOWARD COUNTY, MARYLAND  
 PLANNING BOARD CASE NO. 445 \*

\* \* \* \* \*

**DECISION AND ORDER**

The Planning Board of Howard County, Maryland held a public hearing on June 6, 2019, (and continued on July 25, August 15, September 5, and September 19, 2019), in accordance with Section 107.0.F. of the Howard County Zoning Regulations, to consider the petition of Edmund M. Pollard and Joyce E. Adcock, owners of the property at issue (Petitioners), to approve a Preliminary Equivalent Sketch Plan, SP-19-002, for 17 single-family detached lots and 1 open space lot. The proposed 8.76 acre Lawyers Hill Overlook Property subdivision, located on Lawyers Hill Road, is approximately 500 feet northeast of Summer Home Terrace in Elkridge, Maryland, and identified as Parcel 13 on Tax Map 32, in the First Election District of Howard County, Maryland. The property is zoned R-ED (Residential Environmental Development).

The Notice of Hearing was published, and the subject property was posted, in accordance with the Planning Board’s requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case. Pursuant to the Planning Board’s Rules of Procedure, the reports and official documents pertaining to the petition, including the Technical Staff Report of the Department of Planning and Zoning, the Howard County Code, the General Plan of Howard County, the Howard County Subdivision and Land Development Regulations, the Howard County Zoning Map and Regulations, the Howard County Landscape and Forest Conservation Manuals, the DPW Design Manual, the Adequate Public Facilities Ordinance, and comments from the Subdivision Review Committee (SRC) participating agencies, were made part of the record in this case.

The criteria the Planning Board shall use in evaluating the preliminary equivalent sketch plan are set forth in the Howard County Zoning Regulations at 107.0.F.6. They are:

- a. The proposed lay-out of lots and open space effectively protects environmental and historic resources.

- b. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.
- c. Setbacks, landscape buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

### **FINDINGS OF FACT**

Based upon the testimony given and the exhibits admitted during the course of the multi-night hearing, the Board finds the following facts:

J.J. Hartner, a staff planner with the Howard County Department of Planning and Zoning, presented the Technical Staff Report for the Department. The report, and Mr. Hartner, analyzed the proposal pursuant to the applicable criteria and recommended approval of the Preliminary Equivalent Sketch Plan, SP-19-002, subject to compliance with the Subdivision Review Committee's comments and any additional conditions imposed by the Planning Board. Mr. Hartner testified that all the requirements for subdivision of the site in accordance with the R-ED Zoning Regulations would be met by the proposed plan, environmental resources would be adequately protected, forest conservation requirements met, building and project boundary setbacks satisfied, and the character of the scenic road protected with a buffer from Lawyers Hill Road. An aerial photo of the parcel was provided, as well as a colored rendering of the subdivision plan, which featured the street layout, lot design, landscaping, the preservation of environmental features, forest conservation easements, and open space lots.

Frank Manalansan, L.S., with Fisher, Collins and Carter, Inc., testified that he has approximately 25 years of experience in residential land development and has developed other R-ED zoned properties within Howard County. Mr. Manalansan testified that he received a report of a historic/archeological study that was performed on the property, which was admitted into evidence as Petitioners' Exhibit #1 through another sponsoring witness.

Based upon Mr. Manalansan's testimony, there are several environmentally sensitive areas located onsite, including two wetland areas, one on the south side of the property and one on the northeast side of the property. Mr. Manalansan's testimony shows that the proposed development is designed so that buildable lots will be located away from these wetlands, such that no portion

of the buildable lots would be located within the wetlands, the wetland buffers, or any other required buffers.

Mr. Manalansan's testimony establishes that there are 23 specimen trees located on the property, of which 12 are proposed to be removed, some due to the construction of a new road to serve the development. According to Mr. Manalansan's testimony, most of the specimen trees to be removed are either tulip poplars, which he understood from the other experts on the development team to be undesirable, or are in poor condition.

Based upon Mr. Manalansan's testimony, the development plan takes advantage of the topography onsite and ensures that all storm water management facilities are located at low spots on the site, in the wetland areas, while development will be predominately located at high areas on the property. This allows clearing and grading to be minimized, based upon his testimony. As Mr. Manalansan testified, the site is wooded with the highest point being at the center of the property, sloping down to the north and the south. Mr. Manalansan also testified that there was a residence previously located near the center of the site, but it is now in ruins.

Mr. Manalansan testified that the road to be built to serve the development is located so that disturbance to existing vegetation will be minimal. As his testimony and the plans admitted as exhibits show, the design of the road includes a bend in it and enhanced landscaping, so that the homes will not be visible from the scenic road, Lawyers Hill Road. Further, Mr. Manalansan stated and the plans show that all development is being kept a minimum of 350 feet from Lawyers Hill Road, even though the minimum required buffer from a scenic road is ordinarily only 35 feet. Mr. Manalansan's testimony establishes that enhanced landscaping adjacent to vicinal properties is planned, providing 218 landscaping trees on the property rather than the required minimum of 124 landscaping trees. Additionally, as Mr. Manalansan stated, the caliper of the landscaping trees is in some cases double the required size, which enhances the landscaping and buffering of the development from vicinal properties.

Mr. Manalansan testified that several other changes were made to the original plan in response to comments from various agencies, in an effort to better comply with the R-ED criteria. These changes included reconfiguring planned housing units to better fit the character of the area, further enhancing landscaping, moving utilities to avoid excess tree removal, removing proposed retaining walls to limit clearing and grading, placing the entrance roadway in a location that would

minimize disturbance, and reconfiguring layout of building lots to more effectively protect specimen trees on the property.

Opposition Exhibit #1, a copy of the Preliminary Equivalent Sketch Plan for the planned development, reflects the locations of specimen trees presently on the property and their critical root zones. As Mr. Manalansan explained, the critical root zone is determined based on a calculation and the disturbance of tree roots in the critical root zone can cause the loss of a specimen tree. Mr. Manalansan testified that a dashed green line on Opposition Exhibit #1 shows the limit of disturbance, which he explained is the area of disturbance that will occur when the property is graded as part of development. As Mr. Manalansan testified and Opposition Exhibit #1 shows, several specimen trees have critical root zones that extend into the limit of disturbance. Mr. Manalansan's testimony demonstrates that the amount of disturbance to critical root zones of specimen trees will be limited by making sure that the disturbance is shallow and only at the edge of the critical root zones. Additionally, as Mr. Manalansan explained, the grade of the planned roadway is such that no deep excavation would occur near the trees that are to be retained and only at the periphery of the root zone.

As Mr. Manalansan explained, some of the bio-retention facilities to be constructed on the property for storm water management purposes will be in the critical root zone of some specimen trees, but because of the species of the trees and the location of the bio-retention facilities with respect to the trees, any impact upon the specimen trees will be minimal.

Mr. Manalansan testified that as the development progresses, a specialist will identify the species for all specimen trees in the development, both on and off site. He conceded that, as shown in Opposition Exhibit #2, the Petitioners seek to comply with the County Code regarding forest conservation in an alternative fashion that includes removing 12 specimen trees. Mr. Manalansan indicated that 6 specimen trees in good condition and 5 trees in fair or poor condition are proposed to be removed. Mr. Manalansan testified that approximately 72% of the site is planned to be cleared or graded for the development. Mr. Manalansan stated that the distance between development Lot 2 and the historic Gables House to the west is 168 feet.

Dr. Michael Hornum testified as an expert in cultural resources management, undertaking historical, architectural historical, and archeological investigations to help his clients adhere to regulations related to recordation or preservation of significant cultural resources. Dr. Hornum

has a Ph.D. in archaeology and has worked as a project manager or senior project manager in cultural resources management for almost 25 years.

Dr. Hornum conducted an archival investigation which included examining previous records on the property. Dr. Hornum also undertook an archeological investigation at the proposed development site that consisted of a systematic interval of shovel tests spaced at 20 meters, which he explained is the Maryland State standard for archeological survey investigations. Dr. Hornum did some additional 10-meter interval delineation testing where necessary as follow-up based on finds made in the field.

Dr. Hornum found one isolated prehistoric artifact and two archaeological sites. The first site contained the ruins of a house that was located on the property until the 1990s, and destruction debris and refuse debris associated with that house. The archaeological deposits around the ruins displayed a relatively low number of artifacts (an average of nine artifacts from the culturally positive shovel tests, with an average of seven historic artifacts per shovel test – these artifacts consisted mainly of bottle glass and nails). Therefore, as Dr. Hornum concluded, this site does not possess the qualities of significance and integrity as defined in the national register criteria for evaluation and does not support finding the site of the development to be an historic property as defined in the federal regulations.

The second site also displayed a relatively low number of artifacts (an average of seven artifacts per shovel test that contained material of any cultural value). Therefore, as Dr. Hornum concluded, this site also does not possess the qualities of significance and integrity as defined in the national register criteria for evaluation and does not support finding the site of the proposed development to be an historic property as defined in the federal regulations.

Dr. Hornum limited his study to archaeological deposits found on the property. As he acknowledged, the property is in the Lawyers Hill historic district. He testified that the property's primary contribution to the historic district was an historic structure that existed on the property that is no longer there. As Dr. Hornum stated, the only remaining extant structures on the property are located in a proposed open space area that will be adequately protected from the development activities. Dr. Hornum sought to locate any archaeological evidence that would support the site having any other historical significance, but, as he testified, the only evidence of a road that he could locate on the property were remnants of the driveway for the previously existing house.

Petitioners' Exhibit #1, the historical/archaeological study referenced by Mr. Manalasan, was introduced into evidence based upon the testimony of by Dr. Hornum.

Stephanie Tuite, RLA, PE, LEED AP BD&C, testified that she has been in the land development business for almost 25 years and was involved in preparing the Preliminary Equivalent Sketch Plan for this property. As Ms. Tuite testified, there are methods of tree root pruning that are planned to be utilized in development of the property, if found appropriate, that can improve the survivability of the specimen trees to be retained, even if as much as 50 percent of the critical root zone is impacted. Ms. Tuite indicated that many of the specimen trees that they proposed to be removed are tulip poplars, which she explained are susceptible to falling and lightning strikes. As Ms. Tuite explained, the planned road will necessitate some of the specimen tree removal, if the tree removal is approved through the County's alternative compliance process, but the road is only as wide as the County requires for a new public road, and no wider.

Mr. Joe Rutter, a former Director of Howard County Planning and Zoning who served during the time that the Lawyers Hill local and national historic registers were created, testified. Petitioners' Exhibit 3A & 3B (the proposed and approved areas for the local and national Lawyers Hill Historic Districts) were introduced through his testimony. Mr. Rutter testified that two similar R-ED developments were created in 2010 and 2014 adjacent to the Lawyers Hill district, adding 92 new homes to the area, neither of which has led to Lawyers Hill losing its historic designation.

Petitioners' Exhibits 4A & 4B (letters from Mr. Rutter as Director of Planning and Zoning to the Pollards and the Erbies) were admitted into evidence. Mr. Rutter testified that the letters explained that the local historic district was being established and outlined what that meant. Mr. Rutter testified that the letters stated that the newly created district would not impact the underlying zoning of the property or any of the permitted land uses on the property, but would merely overlay historic district guidelines. Mr. Rutter testified that it was the policy of the County at the time to allow any property owners that did not want their properties to be included in the historic district to have their properties removed from the district.

Mr. Rutter testified that when the County first implemented the R-ED zoning, they had the same issues around Historic Ellicott City. The large open space requirements caused the lots to be clustered down to a smaller size because it is the most environmentally sensitive way of developing land. People did not like the smaller R-ED zoned lots in the Ellicott City Historic District. Mr. Rutter suggested that the owners of property seek to re-zone from R-ED to RR if they did not want

to allow smaller lots on their properties in the historic district. Mr. Rutter testified that the zoning map reflects that about 12 properties were re-zoned RR (the only ones in the eastern part of the county) so that these property owners could ensure that their lots would not be subdivided into anything smaller than 3 acres per lot. Mr. Rutter explained that it is zoning that determines the density restriction that applies.

Mr. Rutter conceded that he did not know whether the Pollards asked that their property not be included in the local Lawyers Hill Historic District or if they asked for the zoning of their property to be changed. Mr. Rutter testified that in 1992, as part of the implementation of the 1990 General Plan, the entire area around the Patapsco River drainage area was re-zoned to R-ED because it was environmentally sensitive land. Mr. Rutter testified that the purpose of R-ED zoning is to create the smallest lots possible to concentrate the housing development, minimize the disturbed area, protect the maximum amount of resources, and maximize the open space. Mr. Rutter stated that at 50%, the R-ED zone has the highest open space requirement anywhere in the County.

Donald Reuwer, President of Land Design and Development, testified that he was hired to help guide the owners of the subject property through the development process. Petitioners' Exhibit 6 (A large copy of the proposed plan) and Petitioners' Exhibits 7A & 7B (blow-ups of portions of the proposed plan) were admitted into evidence. Mr. Reuwer testified that he asked his engineer to place trees wherever they could on the plan. This resulted in providing 241 trees, while only 124 trees are required. Additionally, the plan provides 4"-5" caliper trees throughout the neighborhood, when only 2.5'-3" caliper trees are required. As Mr. Reuwer testified, this will effectively buffer the neighboring properties from the proposed subdivision.

As Mr. Reuwer testified and Petitioners' Exhibits 8 & 9 show, the development plan locates garages behind the homes (either detached or side load) to better fit the character of the neighborhood. As Mr. Reuwer testified, there will be a buffer of open space between the proposed development and the "Gables" House.

As shown in Petitioners' Exhibits 10, 11, & 12 (a rendering of Ms. Kline's property, a blown-up plan of Mr. Robinson's "Gables" property, and a rendering of Mr. Robinson's property, respectively) and by Mr. Reuwer's testimony, the wetlands onsite are being fed entirely by off-site sources and three spring houses on site will be located on an open space lot. Nothing onsite will disturb the wetlands or cause the wetlands to dry up.

Mr. Reuwer testified that he has experience working with specimen trees and cited to projects where he has saved specimen trees in the past. Mr. Reuwer stated that he was confident that they can save the trees proposed to be kept.

As shown by Mr. Reuwer's testimony, the planned use of appropriate fencing will assist with protecting specimen trees from unintentional encroachment by construction equipment. As Mr. Reuwer explained, the plans call for less than 20% of the critical root zone to be impacted on every specimen tree that is planned to be saved. Mr. Reuwer acknowledged that he is seeking approval of alternative compliance under the County regulations to remove and mitigate some of the specimen trees. Mr. Reuwer testified that he plans to ask for permission to reduce the width of the entrance road for the proposed development at the intersection with Lawyers Hill Road.

Opposing parties offered a variety of testimony, seeking to support arguments that the environmental and historic degradation they asserted the development would cause was such that the petition should be denied. The Board found the Petitioners' evidence, as herein recounted, to be more persuasive. However, the Board considered all the testimony presented, including the following presented by the Opposition:

Dr. Matthew Baker testified that he has been a professor of Environmental Science at the University of Maryland Baltimore County (UMBC) since 2008. Prior to that, Dr. Baker was a professor at Utah State University, and prior to that, Dr. Baker worked at the Smithsonian Environmental Research Center in Edgewater, Maryland. Dr. Baker is an ecologist and hydrologist by training. Dr. Baker examined the forest resources, hydrology, and drainage on the site and assessed how he believed the development might impact environmental resources on the site. However, Dr. Baker testified that he has only walked the perimeter of the property and tried to stay outside the edges of the property, so he has not had the benefit that Petitioners' witnesses have of close inspection of the multi-acre site.

Dr. Baker testified that the development, in his assessment, essentially clears and destroys most of the existing forest resources on the site, contrary to the testimony of Petitioners' witnesses and the Planning Board staff testimony provided by Mr. Hartner. Dr. Baker conceded that there is a plan to replace the cleared trees with new plantings but opined that tree planting does not equate to a forest.



Dr. Baker testified that he believes the clearing and grading proposed on the site will substantially alter the “water budget” on the site and lead to less water interception, less infiltration, and more surface runoff. However, as Dr. Baker conceded, there are plans in place for capturing the surface runoff using environmental site design. Dr. Baker testified that the stormwater management devices proposed onsite are only designed to handle storms with 1 ½” – 2” of rainfall and that when a larger storm occurs, he believes the stormwater management devices are unable fully to handle the runoff. Dr. Baker conceded that Petitioners’ plans meet the County’s regulations for storm water management.

Dr. Baker asserted that there are environmental resources on the property, mainly wetlands and downstream aquatic resources, that he believes will be affected by the grading and clearing associated with this development. However, the Board credits the testimony of Petitioners’ witnesses and Mr. Hartner on this point, as especially demonstrated by the sketch plan admitted in evidence. Dr. Baker agreed that there is no housing construction proposed within any wetland areas or wetlands area buffer zones on the property. Dr. Baker stated that he could not specify how much of the property could be developed while avoiding the consequences about which he expressed concerns but that he thought that houses could be built on the property while still retaining the canopy cover and creating minimal disturbance to the soil throughout the property. He opined that this best could be accomplished by building fewer homes on the site but that even then, it would depend on how they were constructed.

Lisa Wingate, an historic preservation professional for more than 30 years and former consultant for the County testified that she was involved in the creation of the Lawyers Hill Historic District Guidelines, which were adopted in 1995. Ms. Wingate testified that Lawyers Hill Overlook is on the National Register of Historic Places and that in her opinion the Historic District itself is an historic resource. Ms. Wingate explained that she believes that the scenic roads in the area, mature landscaping, discreet driveways, well house, and foundation of the former house on the property, are all historic resources. Ms. Wingate also testified that the Gables house next door and all mature trees on neighboring properties are historic resources that should be considered. Ms. Wingate testified that the subject property is also in a Local Historic District. Despite her background, Ms. Wingate testified that she does not know how many historic homes are in the historic district, but she guessed that there are close to 20 “contributing structures” located in the historic district. Ms. Wingate testified that the homes in the historic district have a range of

architectural styles. Ms. Wingate stated that the historic district has winding roads and no sidewalks, with houses spread apart, separated by mature landscaping, and set back from the road. Ms. Wingate testified that if the property were developed with fewer lots that were accessed by a shared driveway, it would be less intrusive to the character of the historic district.

Ms. Wingate admitted that she has no knowledge of whether property owners could elect not to be included in the historic district when it was created. Ms. Wingate testified that she did not know whether this development meets the front setback requirements with respect to a scenic road. Ms. Wingate testified that she believes that trees on the property that date back to the settlement of the neighborhood are historic resources and that trees that are the same age as the original structure on the property are historic.

Ms. Wingate testified that while she believes the ruins of the former home on the property are an historic resource, she conceded that they are not a significant historic resource and should not prevent the property from being subdivided. When asked if most of the homes in the area are not historic, Ms. Wingate testified that she does not know. Ms. Wingate also stated that she does not know how many non-contributing structures are in the historic district, but that the addition of the proposed homes would, in her opinion, significantly tip the balance.

Ms. Gloria Larkin, a retired landscape designer for over 20 years, testified that changing the disturbance to a tree's critical root zone by a matter of inches can cause the tree to either survive or slowly die over several months or years. Ms. Larkin testified that the proposed development would affect the health of every tree on the property by changing the grade, the water flow, and the wind. Ms. Larkin testified that changes in grade will kill a tree, both by adding soil or taking away soil. Ms. Larkin testified that she believes that any impact on soil by construction equipment around the critical root zone of specimen trees will cause irreparable damage. Ms. Larkin testified that replacing a specimen tree with two younger trees would not be equivalent and that replacement even using 10" caliper trees would make no difference.

Joshua Robinson, the owner of the adjacent and historic "Gables" house, located to the west of the property, testified that his house is on the National Registry, the Maryland Historic Trust, and is located within the local Lawyers Hill Historic District. Mr. Robinson testified that there is also an historic gazebo on the property that has been restored. Mr. Robinson testified that he is concerned about how grading for the proposed homes will affect three specimen trees that are on the border of his property and the proposed development. Mr. Robinson confirmed that his

property presently gets some water runoff from the neighboring property where the development is proposed, but that his house is built on a hilltop, so he is not affected as much as his neighbors. Mr. Robinson confirmed that both Lawyers Hill Road and Summer Home Terrace presently have issue with rain water runoff flowing over them.

Mr. Robinson agreed that there is a proposed open space lot directly behind his home in the proposed development. Mr. Robinson also testified that he has had discussions with the Petitioners' developer (Mr. Donald Reuwer) about enhanced landscaping between Mr. Robinson's home and the proposed development. Mr. Robinson stated that Mr. Reuwer has offered to install 5'-10" caliper trees to help buffer Mr. Robinson's home from the proposed development.

Michelle Kline testified that she lives in a house located on a property adjacent to the proposed development. A photo of Ms. Kline's property was entered into evidence as Opposition Exhibit #5. Ms. Kline testified that her home is uphill from the proposed development and she is concerned about removal of mature trees on the property being developed. Ms. Kline also testified that she believes she will be able to see all the homes in the new development, is concerned about light generated from the new development, and does not believe that the proposed development is adequately buffered from adjacent properties. Ms. Kline testified that her house was built in the early 1970's and is not an historic home. However, as Ms. Kline conceded, there is no evidence that any of the trees surrounding her property will be removed by the proposed development and she herself agreed that if the trees remain along the border of her property and the proposed development, then the buffering between her property and the proposed development would be sufficient. Ms. Kline expressed concern that because of the slope that her house is on, she would be able to see over the trees around her house and into the proposed development or that she would be able to see portions of the development road through the existing trees. Ms. Kline testified that if the landscape buffer is adequate, then her view of the proposed development should be limited. Ms. Kline conceded that she has never planted any trees on her own property.

Kristy Mumma testified that she lives in the subdivision next to the proposed development. Ms. Mumma testified that drainage and runoff coming from the property where the development is proposed is already a problem. She did not offer any testimony to suggest that storm water management proposed to be installed does not meet County requirements.

Cathy Hudson testified that approximately 100 feet of road frontage will be graded to accommodate a new public road for the proposed subdivision. Ms. Hudson testified that building a new public road for the development would remove mature trees and alter the scenic nature of Lawyers Hill Road. Ms. Hudson testified that she believes two historic resource areas have not been identified on the plan, the Peddicord Property and Peddicord Lane. This is contradicted by testimony from Petitioners' archaeology expert, whose testimony the Board finds more persuasive.

Additional unrepresented Opponents testified as to their views that:

- The Historic Preservation Commission had reservations about the proposed development.
- The proposed lot size and clustering does not match the layout of the surrounding Lawyers Hill Historic District.
- The plan fails to limit deforestation and site clearing.
- The intent of the historic district is to preserve existing elements, including large lots.
- There are concerns about removal of environmental features on the site and how that may increase water runoff, soil erosion, and have a negative effect on neighboring communities.
- They are concerned that the proposed homes may be too similar in appearance to one another and have smaller lot sizes than other homes in the Lawyers Hill Historic District.
- Historic Districts should be considered Historic Resources.
- Building more than 2.1 houses per decade in the Lawyers Hill Historic District does not comply with the applicable criteria and does not comply with the law.
- There are concerns about the proposed developments proximity to wetlands
- Approving density up to the maximum permitted by the applicable zoning is not legally required if it does not adequately protect environmental and historic resources.
- Requiring a lower density development would cause less impact to the environmental features on site.
- In approving variances to allow tree removal, unwarranted hardship does not mean financial hardship, and the Planning Board should consider that when determining whether the Petitioner meets the applicable criteria.
- The landscaping buffer is inadequate around the perimeter of the property.
- The Planning Board should consider the Historic Preservation Commission's advisory comments when deciding how to define an historic resource.

- The proposed development should have fewer lots and a private, shared use-in-common driveway to help preserve environmental features on the property.
- To remove 12 of 23 specimen trees, the developer must be exempted from forest conservation requirements and an alternative compliance to the forest conservation regulations must be approved. The fact that an alternative compliance to these regulations is required shows that the proposal does not adequately protect environmental resources. It was also noted that the alternative compliance request to remove 12 of 23 specimen trees has not yet been approved by the county.
- The Planning Board is entitled to adjust the allowable density for a project.
- The County may be more stringent than State law, but may not be less stringent as to forest conservation.

As DPZ Director Valdis Lazdins explained, a contributing structure for the historic district is anything that adds to the value or the benefit of the historic district. However, as Mr. Lazdins advised, the Planning Board is not looking at the Historic District in evaluating the Petition, but is only looking at the site itself, including the historic resources on the site, all of which will be preserved in open space and otherwise appropriately protected based upon all of the testimony and exhibits. As Mr. Lazdins also stated, DPZ interprets the regulations to mean that an historic resource is a building, based on the use of the word “façade” to describe the view of historic resources, and the only remaining building is the pump house being preserved in open space.

Chairperson Phil Engelke and Board Member Kevin McAliley both affirmed that they reviewed the recordings and materials for this case for hearings they each missed.

Based upon the foregoing evidence, the Board finds as follows:

1. The proposed Preliminary Equivalent Sketch Plan, SP-19-002, is for the creation of 17 single-family detached residential lots and 1 open space lot on land zoned R-ED (Residential Environmental Development) consisting of 8.76 acres of land.
2. This project is subject to compliance with the Howard County Subdivision and Land Development Regulations including the Forest Conservation Regulations, the Landscape Manual, the Zoning Regulations and Maps, the Design Manual and the Adequate Public Facilities Ordinance.
3. The subject property was properly posted and advertised for this public hearing in accordance with legal requirements.

4. The proposed total area of disturbance will be 6.30 acres, as shown in the admitted exhibits, including the Preliminary Equivalent Sketch Plan.
5. The site contains the ruins of an historic home and contains an historic pump house that will be preserved on an open space lot. There are no cemeteries or grave sites located on the property. The site is located on a scenic road and is in the Lawyers Hill Historic District.
6. The proposed subdivision will effectively protect, preserve and minimize disturbance of the environmental resources.
7. The entire proposed subdivision plan accomplishes protection of the environmental resources by the following means:
  - a. The clustering of residential lots away from the environmental resources to further protect these features and the existing forest.
  - b. Designing the lots to be close in size to the minimum lot size of 6,000 square feet as practical.
  - c. Maximizing the amount of environmental open space by establishment of a minimum of 50% open space on the entire subdivision. This subdivision shall provide 50% of its land as open space. The subject property will provide a substantial open space buffer from surrounding residential lots.
8. The site plan design takes advantage of the uniqueness of the existing topography by minimizing the limits of clearing to construct roadways, homes, driveways and stormwater management facilities.
9. All building setbacks will be met and requirements of the Landscape and Forest Conservation Manual will be met.
10. The proposed development will be served by public water and sewer.

#### **CONCLUSIONS OF LAW**

The proposed preliminary equivalent sketch plan, SP-19-002, satisfies all the standards for approval of a preliminary equivalent sketch plan provided in Section 107.0.F of the Howard County Zoning Regulations for the reasons stated in the Department of Planning and Zoning Technical Staff Report.

Specifically:

1. The proposed lay-out of lots and open space effectively protects environmental and historic resources.

This is shown by the record as a whole, in particular the exhibits of the development, and the testimony of Mr. Hartner, Mr. Manalasan, Ms. Tuite, and Mr. Reuwer. The development includes extensive tree plantings to shield the property from the scenic road, the Gables, and the surrounding district. The lots have been laid out to take advantage of and avoid problematic impact upon environmentally sensitive areas including the wetlands. The County code compliant roadway is located and to be constructed such that trees may be preserved and views remain undisturbed. The only remaining historic resource on site, the pump house, will be preserved in open space.

2. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.

As established by the evidence the Board credits and finds persuasive, the storm water management is located to protect specimen trees and coordinate with existing wetlands and variation in topography. The road, being built pursuant to County standards, is designed to fit into the topography. The planned buildings are integrated into the features of the site and adapted, such as with the garage arrangement and the road placement, to fit in with a minimization of clearing and grading.

3. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

Extensive testimony establishes the extent to which the plan both preserves existing trees to the extent practicable; adds almost twice the required number of new trees, frequently at a larger caliper; and sets the development back substantially from the Gables and the scenic road and the vicinal properties generally.

For the foregoing reasons, the petition of Edmond Pollard and Joyce Adcock, for approval of a Preliminary Equivalent Sketch Plan, SP-19-002, for the subdivision of 17 single-family detached residential lots and 1 open space lot on 8.76 acres of land zoned R-ED, on this 9<sup>th</sup> day of December, 2019 is APPROVED by the Planning Board of Howard County, Maryland, subject to the following conditions of approval:

1. The entrance should be designed, consistent with any safety requirements, to blend with the scenic road and similar in appearance to other access points along the road. This may include seeking necessary waivers to current street guidelines with respect to appearance. Requirements for pedestrian access and similar requirements should be achieved with alternatives that preserve the visual character of the scenic road.
2. Any historic artifacts must be cataloged and archived.
3. The landscape buffer around the entire perimeter of the property must be a “class A” buffer.
4. The buffer and areas of disturbance must take into account the trees on neighboring properties to the extent possible.
5. The developer must consult with and receive recommendations from the Historic Preservation Commission.

HOWARD COUNTY PLANNING BOARD

DISSENT

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Phil Engelke - Chairperson

*Erica Roberts* /sk

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Erica Roberts - Vice-Chairperson

*Delphine Adler* /sk

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Delphine Adler

*Ed Coleman* /sk

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Ed Coleman

*Kevin McAiley* /sk

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Kevin McAiley



PB Case No. 445


ATTEST:

  
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Amy Gowan  
Acting Executive Secretary

REVIEWED FOR FORM AND LEGAL SUFFICIENCY:

HOWARD COUNTY OFFICE OF LAW:

Gary W. Kuc  
County Solicitor

  
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David R. Moore  
Senior Assistant County Solicitor

LIST OF APPLICANT'S EXHIBITS:

- Exhibit No. 1 - *Phase 1 Archaeological Survey*
- Exhibit No. 2 - *Photo packet of Proposed development*
- Exhibit No. 3 A - *Proposed Lawyers hill historic district*
- Exhibit No. 3 B - *Approved lawyers hill district*
- Exhibit No. 4 A - *10/14/93 Pollard Letter*
- Exhibit No. 4 B - *11/2/93 Lloyd Letter*
- Exhibit No. 5 A - *Elkridge Historic District Map*
- Exhibit No. 5 B - *Ellicott City Historic District Map*
- Exhibit No. 6 - *Enhanced Landscape Exhibit*
- Exhibit No. 7 A - *Plant list & legend (Blown up from Landscape Exhibit)*
- Exhibit No. 7 B - *Overall Planting Summary*
- Exhibit No. 8 - *Colored Rendering with Trees*
- Exhibit No. 9 - *Landscape Exhibit*
- Exhibit No. 10 - *Color Rendering Ms. Klein's property*
- Exhibit No. 11 - *Robinson Property Map*
- Exhibit No. 12 - *Color rendering of proposed plan*
- Exhibit No. 13 - *Wetlands drainage area exhibits page 1*
- Exhibit No. 14 - *Wetlands drainage area exhibits page 2*
- Exhibit No. 15 - *Appendix G Soil & Forest Retention*
- Exhibit No. 16 - *Enhanced Preliminary Landscape Exhibit*
- Exhibit No. 17 - *Tree photo*

LIST OF PROTESTANT'S EXHIBITS:

- Exhibit No. 1 - *Preliminary Grading Plan*
- Exhibit No. 2 - *Alternative Compliance Application*
- Exhibit No. 3 - *Historic District Map*
- Exhibit No. 4 - *Beige House and pool photo*
- Exhibit No. 5 - *Trees and porch photos*
- Exhibit No. 6 - *SWM and gravel photo*
- Exhibit No. 7 - *6199 Lawyers Hill Road*
- Exhibit No. 8 - *Historical deeds*
- Exhibit No. 9 - *Existing features plan*
- Exhibit No. 10 - *ZB Case 948M Technical Staff Report*