

R E S O L U T I O N

WHEREAS, College Park Gateway Properties, LLC is the owner of a 3.54-acre parcel of land known as Parcel A (WWW 69@66) and Parcel B (WWW 73@57), and part of Parcel 137, said property being in the 21st Election District of Prince George's County, Maryland, and being zoned M-U-I/DDOZ & R-O-S; and

WHEREAS, on July 31, 2008, College Park Gateway Properties, LLC filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-07095 for College Park Student Housing (Parkview) was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on December 18, 2008, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on December 18, 2008, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/028/08), and further APPROVED Preliminary Plan of Subdivision 4-07095, College Park Student Housing (Parkview), including Variations to Sections 24-130 and 24-129 for Parcel A with the following conditions:

1. A Type II tree conservation plan shall be approved in conjunction with the detailed site plan.
2. Development of this site shall be in conformance with approved Stormwater Management Concept Plan 6607-2007-00 and any subsequent revisions.
3. Prior to the approval of the detailed site plan application by the Planning Board, a statement listing how the site and the building will seek to obtain the highest possible level of certification as defined by the Leadership in Energy and Environmental Design (LEED) shall be submitted. At a minimum, the building design should include green roof techniques and the retention and re-use of 100 percent of the stormwater that is intercepted by the roof of the building. The stormwater management concept plan approval should reflect this concept.

4. Prior to approval of the detailed site plan by the Planning Board, the applicant shall demonstrate the approval of the proposed 100-year floodplain and compensatory storage by the Department of Public Works and Transportation (DPW&T).
5. Prior to signature approval of the preliminary plan, the TCPI shall be revised to show the proposed stormwater management concept as reflected on the approved stormwater management concept plan.
6. At the time of detailed site plan review, the landscape plan shall show the provision of appropriate street trees along US 1 and the existing and/or proposed utility lines and associated easements.
7. Prior to signature approval of the preliminary plan, the TCPI shall be revised as follows:
 - a. Show a continuous building footprint for all buildings proposed on the site.
 - b. Identify all symbols and line types on the plan and in the legend.
 - c. Revise the plan so that the existing tree line for the site is visible over all layers and use a heavier line weight so that the tree line is more visible on the plan.
 - d. Revise the worksheet as necessary.
 - e. Have the plans signed and dated by the qualified professional who prepared the plan.
8. Development of this subdivision shall be in conformance with the approved Type I Tree Conservation Plan (TCPI/028/08). The following note shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/028/08), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince Georges County Planning Department.”
9. Prior to the issuance of a grading permit, as mitigation for impacting the stream buffer and expanded stream buffer, the TCPII and erosion and sediment control plans shall be revised to show the areas of off-site plant removal and reforestation as follows:

- a. Subject to the approval of the Department of Parks and Recreation, including but not limited to a right of entry agreement, the applicant shall remove the invasive plants and reforest at a ratio of 1:1 within the buffer area along the western property line of the subject property; and
- b. Subject to the approval of the University of Maryland, the applicant shall remove the bamboo patch and reforest at a ratio of 1:1 on the south side of the stream west of the US 1 bridge.

Prior to the issuance of the grading permit for the subject property, the off-site plant removal and reforestation projects described in subparts 10(a) and 10(b) above shall be bonded with DPR and the appropriate County or State agency, respectively.

The off-site plant removal and reforestation projects are in addition to the Woodland Conservation requirements for the subject property. Neither the M-NCPPC property nor the University of Maryland property shall be encumbered with woodland conservation.

10. Prior to issuance of any Use and Occupancy Permit, subject to the approval outlined in Condition 10(a) and 10(b) above, the plant removal and reforestation projects on the M-NCPPC property and the University of Maryland property shall be completed.
11. Prior to the issuance of a building permit, as further mitigation for impacting the stream buffer and expanded stream buffer, the applicant, its heirs, successors and/or assignees, shall contribute \$100,000.00 to the Department of Parks and Recreation which shall be used for downstream mitigation of the Paint Branch Stream Valley.
12. In accordance with Section 27-548.43(b)(2) of the Zoning Ordinance and as modified herein, prior to final plat approval, a disclosure clause shall be approved for placement on the final plat and for inclusion in deeds and rental agreements for all properties that notifies prospective purchasers and/or tenants that the property has been identified as within approximately one mile of a general aviation airport. The disclosure clause shall include the cautionary language from the General Aviation Airport Environment Disclosure Notice.
13. The final plat shall establish front building restriction lines to ensure that APA-4 open space areas remain free of dwellings or as otherwise determined with the review of the detailed site plan.
14. Prior to signature approval of the preliminary plan, the applicant shall submit four copies of the final Phase I archeology report for review and approval.
15. At the time of review of the detailed site plan, the DSP and Type II tree conservation plan shall be further evaluated for opportunities to minimize impact to the minimum 50-foot stream buffer.
16. The Maryland-National Capital Park and Planning Commission property shall not be disturbed in any way without the prior written consent of the Department of Parks and Recreation.

17. Prior to signature approval of the preliminary plan, the applicant shall provide an indemnification agreement to DPR, holding M-NCPPC harmless from any damages or losses caused by stream erosion on adjacent parkland or movement of the stream over time. The agreement shall be recorded in land records and the liber/folio reflected on the record plat prior to approval.
18. Prior to approval of the final plat of subdivision the applicant and the applicant's heirs, successors and/or assignees shall pay a fee-in-lieu of parkland dedication.
19. The total development within the subject property shall be limited to 274 multifamily student housing residential units, and 23,700 square feet of commercial retail space, or different uses generating no more than 65 AM and 131 PM peak-hour vehicle trips, respectively.
20. The final plat shall reflect dedication along US 1, as shown on the submitted preliminary plan.
21. Prior to the issuance of any building permit, the following improvements shall (a) have full financial assurances, (b) have been permitted for construction and (c) have an agreed upon timetable for construction with the appropriate agency:
 - a. Provision of a direct pedestrian and bike trail from the proposed site to the existing pedestrian bridge across the Paint Branch Stream Valley.
 - b. If deemed appropriate by the SHA, provision of a pedestrian activated signal and pedestrian cross walk across US 1 at the appropriate location.
22. Prior to the approval of the detailed site plan, the applicant shall demonstrate conformance to Section 27-548.42, Height Requirements of Part 10B Airport Compatibility of Subtitle 27, which limits the height of buildings in APA-4 and 6 to no more than 50 feet unless the applicant demonstrates compliance with Federal Aviation Regulations (FAR) Part 77 by providing written opinion from the Federal Aviation Administration ensuring that the building height does not negatively impact the flight operations of the College Park Airport. The applicant shall submit a written copy of evidence of compliance with FAR Part 77 to DPR.
23. Prior to the issuance of the first building permit, if required by SHA, the construction of the proposed US 1 street improvements along the property's street frontage, as per specifications provided by SHA, shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with the City of College Park and/or SHA.
24. At the time of detailed site plan, access to the site's northern driveway shall be shown as right-in, with construction of a median on US 1 if acceptable to the State Highway Administration.

25. Prior to building permit, provide copies of agreements with the University of Maryland that confirm the availability of Shuttle UM service and the provision of overflow parking on campus for residents of the project.
26. Prior to the issuance of any building permit, the following improvement shall (a) have full financial assurances and (b) have been permitted for construction: Provide a paved pathway from the north side of the building to connect with the existing pedestrian bridge.
27. The applicant shall provide a 10-foot public utility easement (PUE) along the properties frontage of US 1 at the time of detailed site plan or shall provide evidence from all of the effective public utility agencies that the public utilities shall be provided within the public right-of-way.

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The subject site is located on the west side of Baltimore Avenue, within the boundary of the City of College Park, south of Berwyn House Road, and south of Navahoe Street.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	M-U-I/DDOZ/R-O-S	M-U-I/DDOZ/R-O-S
Use(s)	Restaurant/Auto Repair and Vacant Building	Multifamily dwellings and 23,700 sq. ft. of retail
Acreage	3.54	3.54
Parcels	3	1
Dwelling Units:		
Multifamily	0	274
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed the above referenced Preliminary Plan of Subdivision, 4-07095, and Type I Tree Conservation Plan TCPI/28/08. The original application was stamped as received by the Environmental Planning Section on August 1, 2008. Verbal comments were provided at the Subdivision Review Committee meeting on August 22, 2008, and written comments were provided on September 23, 2008. A revised preliminary plan, Type I tree conservation plan, 100-year floodplain analysis, variation request, and approved existing and proposed floodplain plan were stamped as received on September 25, 2008. Not all of the comments in the memorandum dated September 23, 2008 were addressed on the revised plans.
 The Environmental Planning Section has no record of any previous applications for the subject

property. This property is located within the approved College Park US 1 Corridor sector plan. This preliminary plan is for land totaling 3.54 acres in the M-U-I and R-O-S Zones.

The site drains directly into the Paint Branch Stream Valley of the Anacostia River basin. A review of the available information indicates that there are no areas of severe slopes, or steep slopes on erodible soils associated with the site. There are no streams or wetlands on this site; however, the site does contain a small portion of the 50-foot stream buffer along the northern boundary of the Paint Branch Stream Valley. The majority of the site is within the 100-year floodplain which is all a part of the expanded buffer of the Paint Branch Stream Valley. Marlboro clay is not found to occur on the site. Baltimore Avenue is currently a major collector roadway generally not regulated for noise. The soils found to occur on the site, according to the *Prince George's County Soil Survey* are Cordorus, Hatsboro, and Woodstown-urban land complex. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads adjacent to this property. This property is located in the Developed Tier as delineated in the adopted General Plan.

Master Plan Conformance

The subject site is located in Area 3a of the College Park US 1 Corridor sector plan. The sector plan notes that this property, which is located within the 100-year floodplain, contains an excessive area of impervious surfaces that pre-date the county's stormwater management regulations. There are several goals related to woodland conservation, noise, stormwater management (quantity and quality control), stream enhancement, low impact development, and green building techniques that are discussed within the sector plan.

The following are the plan's recommendations with regard to the environmental framework of the site.

- a. **Avoid and enhance environmentally sensitive areas. Development shall be avoided in environmentally sensitive areas. All development should enhance the existing environmental features and replace lost environmental features to the fullest extent possible.**

All on-site sensitive environmental features are within the expanded buffer, which covers most of the site. The most sensitive environmental feature on the site, in addition to the 100-year floodplain, is the minimum 50-foot stream buffer associated with Paint Branch. Because the stream is currently severely degraded, impacts to the 50-foot stream buffer should be minimized or avoided. An impact for a stormwater management outfall is anticipated. Impacts to the expanded buffer are discussed in the Environmental Review section.

- b. **Incorporate low-impact development design features and implement green building**

techniques. New building designs and building rehabilitation and redevelopment projects should strive to incorporate the latest environmental technologies in project building and site design. Wherever possible, existing buildings within the plan area should be reused and retrofitted.

The proposed development is for a multifamily building consisting of retail uses and 274 student housing units. This type of design can incorporate the use of green building techniques, such as the use of renewable resources and recycled materials. The proposed design will require the removal of the existing development, which consists of a restaurant, auto repair shop, and abandoned building.

Stormwater management on this site is of significant concern because almost the entire site is within the 100-year floodplain and it appears that, based on the plans submitted, at least some portion of the stormwater runoff will be directly conveyed to the stream untreated and uncontrolled. The stream is significantly degraded due to the high density development that currently exists in the watershed and the lack of stormwater controls in the past.

The design should consider techniques that can be credited toward Leadership in Energy and Environmental Design (LEED) certification at the gold level. The specific green building techniques and features should be evaluated further at the time of detailed site plan review.

Prior to the approval of the detailed site plan, the applicant should submit a statement listing how the site and the building may seek to obtain the highest possible level of LEED certification as defined by the Leadership in Energy and Environmental Design (LEED). The building design should include green roof techniques and the retention and re-use of 100 percent of the stormwater that is intercepted by the roof of the building. The stormwater management technical plan approval should reflect this concept.

- c. **Affirm county Commission 2000 and state Smart Growth initiatives. New development and redevelopment should enhance existing green infrastructure elements such as wetlands, woodlands, open space, landscaped area, street tree corridors, and sensitive species habitats. It should also establish open space linkages where they do not currently exist.**

The proposed development in the subject location could be considered a smart growth project by providing student housing near the university. The plan for the proposed park to the south includes a bridge over the stream to provide connection from this open space to the university.

At the time the sector plan was written, the *Approved Countywide Green Infrastructure Plan* did not exist. The enhancement of the green infrastructure elements listed above has not been addressed in the current application. A mitigation package for the impacts proposed to the expanded stream buffer has been provided by the applicant as discussed below.

- d. **Seek opportunities to create new, connected green infrastructure elements. New or redevelopment project proposals should establish landscaped areas and open space**

connections between adjacent parcels and the stream valley.

Green infrastructure is discussed further below.

The following are specific recommendations pertaining to the environmental framework of the site:

Stormwater Management and Stream Restoration, Floodplain, Wetlands, Woodland Conservation, Noise Pollution, Air Quality

a. Low-impact stormwater management methods should be used on new development.

Low-impact development (LID) stormwater techniques include removing pollutants from stormwater, slowing water flow, and eliminating the need for stormwater management ponds by using practices and structures such as sheet flow, filter strips, bioretention areas, and green roofs.

The building footprint, as shown on the plan, appears as if it can support green roof techniques, which is the most ideal LID technique for this development. Green roof techniques and retention of 100 percent of the stormwater that falls on the site are the top priorities for conformance with the sector plan. These, in addition to green roofs should be key elements of this design.

b. Retrofit existing stormwater quantity and control management practices.

The site currently has no on-site or off-site stormwater quantity and control structures. The environmental impact assessment that was previously submitted for this site states that an underground storage facility that provides one and two year detention will be constructed on the site. An approved stormwater management concept letter and plan have been submitted. The letter states that, in addition to a fee-in-lieu of on-site attenuation and water quality control, one year attenuation and filtration is required. The letter also states that "Flood waiver approval is required for development within the 100-year floodplain."

In a meeting held with the applicant on September 18, 2008, the applicant committed to providing an underground storage facility on the site, in addition to compensatory storage for development within the 100-year floodplain. The submitted concept plan shows the proposed facility.

A 100-year floodplain analysis dated September 23, 2008 has been submitted. The plan details the proposed 100-year floodplain and compensatory storage that is necessary to develop the site. The compensatory storage is proposed under the portion of the building that is placed on pilings and the area underneath will be embanked to store stormwater. The proposal for the adjusted floodplain is currently under review with Prince George's Department of Public Works and Transportation.

Prior to approval of the detailed site plan by the Planning Board, written approval from Prince George's Department of Public Works and Transportation for the proposed 100-year floodplain and compensatory storage should be submitted.

c. **Preserve and establish woodland when constructing stormwater management ponds.**

No stormwater management ponds are proposed on the site. Woodland conservation is discussed further.

d. **Restore physically degraded streams through bioengineering techniques.**

The Paint Branch stream system, particularly the area within this sector plan, is heavily degraded due to several factors which include loss of riparian buffer, loss of 100-year floodplain, and lack of adequate stormwater management controls with increased new development in the area. The degradation is characterized by eroded, undercut, and widening stream banks, in addition to sedimentation, fish blockages, exposed pipes, trash and debris, and loss of buffer. Without some form of restoration, further damage to the stream could seriously affect the stability of surrounding properties. This includes increased flooding and destabilization of building foundations adjacent to the stream bank.

As new development or redevelopment is introduced in the area, stream restoration should be incorporated into the development plan to prevent any further physical damage to the stream. Because the development of the site will result in impacts to the expanded buffer, stream restoration is warranted. While contributions to stream restoration of the larger system may be required by the Department of Public Works and Transportation, stream restoration associated with impacts to the expanded buffer are separate from those mitigation requirements for stormwater management.

Because stream restoration, outside of stormwater management, will be directly related to proposed impacts, this issue is further discussed in the Environmental Review section below.

e. **New buildings should be elevated out of the floodplain when redevelopment occurs.**

The site is currently developed with a repair shop, restaurant, and abandoned building. Because the portions of the right-of-way and adjacent sites are within the floodplain, it will be impossible to re-develop the site without disrupting the current infrastructure and topography of the area. In order to address some flooding issues, the TCPI shows that a portion of the proposed structure will be constructed on columns so that the building is raised out of the level of the 100-year floodplain.

f. **Replanting trees should be a priority along the corridor.**

Woodland conservation is discussed later in this memo.

g. **Establish street tree corridors along roadways and on individual properties.**

Page 174 of the sector plan requires that street trees be established along the roadways within the development district. The street trees must be deciduous and at least 12 feet in height and 2.5 inches in caliper at time of planting. Ornamental trees may be used in place of deciduous trees when overhead obstructions may be a factor. At the time of review of the detailed site plan, the landscape plan should show the provision of appropriate street trees along US 1 and the existing and/or proposed utility lines and associated easements.

h. Noise impacts should be evaluated for proposed development.

Baltimore Avenue (US 1) is designated as a major collector roadway. Because this classification is one that is not predicted to carry traffic volumes that will generate noise levels above 65 dBA Ldn, development adjacent to this classification of roadway is not required to provide noise mitigation. There are no further recommendations regarding noise impacts.

The following are the development district design standards from the sector plan that pertain to this site.

S6. Trees, Planting and Open Space

Paragraphs B and C on page 196 of the sector plan state the following:

- B. The planting of trees on sites proposed for new development and/or redevelopment shall be counted toward meeting the Woodland Conservation Ordinance requirements. Street trees planted on abutting road rights-of-way may also be counted toward meeting the requirement.**
- C. Afforestation shall be accomplished through the provision of shade and ornamental trees. Tree Cover shall be provided for a minimum of 10 percent of the gross site area and shall be measured by the amount of cover provided by a tree species in 10 years. Street trees planted along abutting rights-of-way may be counted toward meeting this standard. Exceptions to this standard shall be granted on redevelopment sites where provision of 10 percent tree cover is not feasible due to existing buildings and site features.**

It was determined through the review of the TCPI that on site afforestation was not feasible because of the size of the project.

S7. Stormwater Management

Paragraph A reads as follows:

- A. Low impact development techniques as contained in the current version of the design manual 'Low-Impact Development Design Strategies An**

Integrated Design Approach,' as published by the Department of Environmental Resources, shall be used on all sites as either the primary or secondary method of collecting and/or treating stormwater.

Low impact development techniques were previously discussed.

Paragraph C, D and E read as follows:

- C. If the construction of stormwater management facilities results in the removal of trees or existing woodland, the area should be replaced within the same site. Wherever possible, bioengineering techniques should be used to re-establish the woodland lost.**
- D. The use of underground retention facilities shall be considered through the development district, especially in the main street (3a and 3b) and town center (1a, 1b, 1c, 1d and 1e) subareas.**
- E. Stormwater management facilities should be designed as visual amenities that are visible from a building or a street, rather than located in isolated areas. Openings in any screening treatments shall be provided to facilitate observation of the area.**

Stormwater management is discussed previously.

Green Infrastructure Plan Conformance

The site is within the designated network of the *Approved Countywide Green Infrastructure Plan* and includes large areas designated as regulated areas, evaluation areas and network gaps. The regulated area comprises more than 50 percent of the site and is associated with the Paint Branch Stream Valley and its wooded buffer.

The following policies support the stated measurable objectives of the Countywide Green Infrastructure Plan:

Policy 1: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.

The subject property contains regulated areas, evaluation areas, and network gap areas, as identified in the Countywide Green Infrastructure Plan, adjacent to the Paint Branch Stream

Valley. Preservation of sensitive environmental features and woodland conservation is discussed in the Environmental Review section below.

Policy 2: Preserve, protect, and enhance surface and ground water features and restore lost ecological functions.

Surface and ground water controls will be addressed through stormwater management concept approval, which is required for review with this application. It is anticipated that these requirements will be met using a fee-in-lieu of providing on-site facilities. The restoration of ecological functions to mitigate proposed impacts to the stream is a separate issue and will be addressed through the restoration of the stream and stream habitat which will include practices that allow the stream system to function as a primary wildlife corridor. Stream restoration is discussed in the Environmental Review section below.

Policy 3: Preserve existing woodland resources and replant woodland, where possible, while implementing the desired development pattern of the 2002 General Plan.

Woodland conservation with regard to green infrastructure is discussed in the Environmental Review section below.

Environmental Review

An approved Natural Resources Inventory, NRI/015/08, was submitted with the application. The NRI notes that a portion of the minimum 50-foot stream buffer exists on the site and it is expanded by regulation to include the 100-year floodplain. The TCPI and preliminary plan do not show the existing 100-year floodplain and expanded buffer. The TCPI shows what appears to be a proposed 100-year floodplain. A variation to Section 24-129 of the Subdivision Regulations is required for residential buildings within 25 feet of the floodplain. A variation was received and is approved with this application.

The forest stand delineation (FSD) indicates one forest stand, Stand A, totaling 1.62 acres and 14 specimen trees. Stand A is located along the western portion of the site, adjacent to the Paint Branch Stream Valley system. Five of the 14 specimen trees that were identified are off-site. The stand structure was rated as “good” and classified as a Priority 2 save area; however, this is a Priority 1 save area because it is within the expanded buffer.

Prior to signature approval of the preliminary plan, the TCPI should be revised to eliminate the proposed 100-year floodplain line from the plan, and the TCPI and preliminary plan should be revised to correctly show all the existing regulated features of the site in accordance with the signed NRI. This should include, at a minimum, the 100-year floodplain and expanded buffer.

The site is subject to the Prince George’s County Woodland Conservation and Tree Preservation Ordinance because it is greater than 40,000 square feet in area and there are more than 10,000

square feet of existing woodlands on-site. A Type I tree conservation plan has been submitted and reviewed.

The woodland conservation threshold for this site is 0.01 acre, or 15 percent of the net tract (0.8 acre). The worksheet shows that the total woodland conservation requirement, based on the proposed clearing, is 1.65 acres. This is due to the high area of disturbance within the 100-year floodplain, which must be mitigated at a 1:1 ratio. The plan shows the requirement being met with 1.65 acres of off-site mitigation. The amount of off-site mitigation will be reduced when the comments above are addressed with regard to the sector plan.

While the constraints of the site with regard to developable area are recognized, it should be noted again that this site contains elements of the Countywide Green Infrastructure Plan that are associated with sensitive environmental features that need to be preserved and protected. The entire western half of the site is within a regulated area and comprises woodland that directly buffers the Paint Branch Stream Valley. As noted above, this area of woodland should be given the highest priority for preservation and protection due to its function of buffering the stream.

The plan shows a discontinuous tree line due to other features on the site, particularly the proposed slab on grade. The plan should be revised so that the existing tree line for the site is visible over all layers and show the tree line at a heavier line weight so that it is more visible on the plan.

Variation to Section 24-130

The Subdivision Ordinance requires the preservation of the expanded stream buffer in a natural state unless the Planning Board approves a variation request. The preliminary plan and TCPI, as revised, show the delineation of the 50-foot stream buffer. Although the expanded buffer limits are not shown, it includes approximately 100 percent of the property because of the existing 100-year floodplain. Impacts to the expanded buffer require variations to the Subdivision Regulations.

The plan shows impacts to the entire on-site expanded buffer for the proposed development. Consideration should be given for impacts to the 100-year floodplain because it encompasses the entire developable area of the site. Disturbance to the 50-foot stream buffer should be minimized.

The degraded nature of the Anacostia watershed, particularly the Paint Branch stream system, has become a serious concern in the past few years because of flooding problems, but more because of the extreme physical change in the stream morphology due to erosion. There are several different ongoing efforts by the county, state, and federal governments, in addition to private interests groups, to evaluate the conditions of the stream and address long term solutions to restore it. The subject application includes a proposal for stream restoration to mitigate the proposed impacts.

As part of the stormwater management requirements for this development, it is anticipated that a

contribution will be made to the county as a fee-in-lieu of providing on-site stormwater management. As discussed previously, contributions required for stormwater management control are separate from stream restoration requirements associated with impacts to the expanded buffer for the development of the site. To mitigate impacts to the expanded buffer and stream buffer, the applicant will be performing some mitigation and reforestation on M-NCPPC and University of Maryland property, as well as contributing 100,000 dollars to the DPR for stream restoration down stream from the subject site.

A variation request has been submitted. The request did not adequately separate each impact type as necessary to evaluate the request; however, impacts are proposed to disturb the entire area of the site for the construction of the proposed building and associated parking, the installation of a retaining wall, stormwater management, and compensatory storage. While it is recognized that this site could not be developed without impacts to the expanded buffer, the minimum 50-foot stream buffer should be avoided where it is possible. The revised plan and exhibits as submitted shows grading into the existing 50-foot stream buffer for the proposed embankment underneath the parking deck that will extend over the buffer. The proposed impact should be further evaluated at the time of review of the DSP for opportunities to minimize disturbance to the 50-foot stream buffer.

Section 24-113 of the Subdivision Regulations contains four required findings [**text in bold**] to be made before a variation can be granted for disturbance to the 100-year floodplain and an impact to the 50-foot stream buffer.

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant if disturbance to the 100-year floodplain is not permitted. However, that could result in the applicant not being able to develop this property.

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;**

The variation is required to address the regulations associated with the expanded stream buffer, which includes the 100-year floodplain and the 50-foot stream buffer which is

designed to promote public safety and health and to ensure no off-site properties are damaged. The proposed design will be required to meet all existing regulations regarding compensatory storage. These regulations are designed to prevent detrimental affects on other properties.

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

The conditions of the property are unique with respect to the location of the existing stream and its associated buffer. It is extremely rare for a property to contain no developable area. This site is entirely within the 100-year floodplain.

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

No other variances, departures, or waivers are required with regard to the subject application. No violations of applicable laws would result from the approval. All appropriate federal and state permits must be obtained before construction can proceed.

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

Due to the existing conditions of this site, particularly the location of the 100-year floodplain, disapproval of the variation could result in a hardship to the applicant because there are no developable areas on-site outside the expanded buffer. The variation for disturbance to the expanded stream buffer with conditions is approved.

At the time of review of the detailed site plan the DSP and Type II tree conservation plan should be further evaluated for opportunities to minimize impact to the minimum 50-foot stream buffer to the extent possible.

Stream Restoration

During the review of this preliminary plan, staff exhausted every effort to have the applicant provide stream restoration adjacent to the subject site that would be directly impacted from the proposed development. Staff learned that the design for a stream restoration project to correct a fish blockage, to be performed by the Army Core of Engineers was currently underway. Staff met with the ACOE project leaders to explore options that could include the applicant as part of the project to do the some of the restoration; however, they were clear that because the details of the project with regard to design and implementation were final, there were no opportunities for the applicant to be directly involved with the intended in-stream mitigation work. Because

ACOE has jurisdiction over Waters of the US, including this segment of stream, and they are the final permitting authority for in-stream impacts within Waters of the US, staff looked at other alternatives that would enhance the stream valley in addition to the ACOE's project. The applicant has agreed to enhancing the stream buffers by removing existing invasive plants along the stream banks, and reforesting them. Because this enhancement will not fully mitigate the impacts that will result from the proposed development, the applicant is also contributing funding in the amount of \$100,000 dollars to the Department of Parks and Recreation that will be used to restore areas downstream of the subject site.

Variation to Section 24-129 for setback to the 100-year floodplain

Floodplain regulations in Section 24-129(a)(5) of the Subdivision Regulations require a 25-foot setback for residential uses from the 100-year floodplain. The project proposes residential uses. A variation request was received and evaluated for conformance with the requirements of Section 24-113.

Section 24-113 of the Subdivision Regulations sets forth the required findings [**text in bold**] for approval of variation requests. The variation approval is based on the following findings.

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

- 1. The granting of the variation will not be detrimental to the public safety, health, welfare, or injurious to other property.**

Provisions are being made by the applicant to address the proposed impacts on the 100-year floodplain that include compensatory storage, stream restoration, and low-impact development techniques. These plans should be reviewed by staff at the detailed site plan stage.

- 2. The conditions on which the variation is based are unique to the property**

for which the variation is sought and are not applicable generally to other properties.

The uniqueness of this property is that it is entirely within the 100-year floodplain. Other sites in the area are only partially impacted by the floodplain. The applicant's proposal is also unique in that the residential units will be above the floodplain. Flood damage to these units is not expected.

3. The variation does not constitute a violation of any other applicable law, ordinance, or regulation.

The approval of this variation does not appear to constitute a violation of any other applicable law, ordinance, or regulation. During subsequent phases of development, all applicable permits will be required at the federal, state, and local levels. The property is in a designated development subarea of the newly adopted sector plan. While only a matter of public policy and not a matter of law, the sector plan intends for this land to be developed with residential uses backing to the floodplain.

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

If this variation is not approved, development of the property with a residential use in accordance with the recommendations of the sector plan and applicable zoning would be impossible. Therefore, the denial of this variation would impose a particular hardship on the property owner.

Water and Sewer Categories

The 2001 Water and Sewer Plan as amended, designates this property in water and sewer service Category 3 as of July 28, 2008, and the site will therefore be served by public systems.

5. **Community Planning**—The 2002 *Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment* rezoned existing Parcels A and B from the C-S-C Zone to the M-U-I Zone. The SMA also placed Parcel A, B, and all of Parcel 137 in the Development District Overlay Zone (DDOZ). In order for the applicant to develop the property as proposed, rezoning is required for that portion of the property currently zoned R-O-S.

This application is located under the traffic pattern for a small general aviation airport (College Park Airport) and is subject to Aviation Policy Area regulations in Sections 27-548.32 through 27-548.48 of the Zoning Ordinance. In particular, the applicant should be made aware of height and purchaser notification requirements contained in these regulations and discussed further in the APA section of this report.

This application is located in the Developed Tier and is in a designated corridor (Baltimore Avenue-US 1). The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The vision for corridors is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. This development should occur at local centers and other appropriate nodes within one-quarter mile of major intersections or transit stops along the corridor. The proposed preliminary plan conforms to the land use recommendations which will be further implemented with the review of the detailed site plan.

The property is located within the limits of the *2002 Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment*, in PA 66 /Subarea 3a (Main Street). The vision for Subarea 3a “is for redevelopment to emphasize office development in proximity to the university. Pedestrian bridges will provide connections to the university over Paint Branch. A rear service road will improve access and circulation throughout this area (p. 160).” However, due to the close proximity of the site to the Paint Branch Stream Valley, a service road can not be accommodated.

In Subarea 3 (in general), the sector plan recommends “a neighborhood main street district featuring a compact mix of retail shopping, restaurants, and offices. There are opportunities for retail infill development to meet the demand for office and high-tech uses in close proximity to the research and engineering facilities of the university.” The primary building entrance should be provided on the street to facilitate pedestrian connections. Vertical mixed-use buildings are encouraged. Amenities such as public plazas and urban open spaces should be integrated. Parking should be located in lots sited to the side or rear of properties (p. 39 and 160). The approved land use map (p. 33) reflects retail/commercial, office, and multifamily land uses on the subject property, which is included in the Development District Overlay Zone. The proposed development is consistent with those land use recommendations.

This application is not inconsistent with the 2002 General Plan Development Pattern policies for corridors in the Developed Tier. This application conforms to the land use recommendations of the *2002 Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment* based on all of the findings contained in this resolution.

6. **Parks and Recreation**—The Department of Parks and Recreation review of this preliminary plan considered the recommendations of the approved sector plan and sectional map amendment for College Park US 1 Corridor, the Land Preservation and Recreational Program for Prince George’s County, current subdivision regulations, and existing conditions in the vicinity of the proposed development.

The project area consists of 3.54 acres of land zoned M-U-I (Mixed Use Infill) and R-O-S (Residential Open Space). The area zoned M-U-I constitutes most of the development. Approximately one acre of the development falls within the R-O-S Zone and is currently owned by The Maryland-National Capital Park and Planning Commission (M-NCPPC). The applicant, the State of Maryland and M-NCPPC have agreed to the exchange of property. The applicant is proposing 274 units of student housing, and 23,700 square feet of retail. Using current occupancy statistics for single and multifamily dwelling units, the development will provide approximately 499 new residents.

Directly west of the project area is Paint Branch Stream Valley Park, which is owned and maintained by M-NCPPC. Currently, Paint Branch is categorized as a degraded stream valley and is subject to un-regulated storm flows, which cause erosion of the stream banks. Development along its banks further compromises the quality of the stream and ecosystem. To counter this, the Army Corps of Engineers (Corps) is in the design stage of a restoration project that will include frontage along the subject property. Construction of the Corps project is expected to begin approximately one year from now.

Despite the efforts described above, DPR is concerned about liability for any damages to improvements on this property resulting from the movement and/or erosion of the Paint Branch Stream Valley. Therefore, Planning Board requires the applicant provide an indemnification agreement holding M-NCPPC harmless for any damages incurred as a result of movement or erosion along the banks of the Paint Branch stream.

M-NCPPC operates and maintains the College Park Airport both as an operating airport and as a historic site. The College Park Airport is listed in the National Register of Historic Places and is the world's oldest continuously operating airport, founded by the Wright Brothers in 1909. Protection of the airport's viewshed is an important goal and its location and setting are criteria for its designation as a historical property on the national registry.

This project is located in the APA-6 area for the College Park Airport as shown in approved Council Bill CB-51-2002 (DR-2)—General Aviation Airports and Aviation Policy Areas. The bill states that in “APA-6, no building permit may be approved for a structure higher than 50 feet unless the applicant complies with Federal Aviation Regulations (FAR) [sic] Part 77.” At the time of detailed site plan, a determination should be made as to whether this project conforms with CB-51-2002 and/or FAR Part 77.

7. **Trails**—The site is located on US 1, which is recommended in the approved College Park US 1 Corridor sector plan to be reconstructed into a four-lane road as proposed by the Maryland State Highway Administration (SHA). The site is adjacent to the Paint Branch Stream Valley Park, which is an important amenity and transportation connection between US 1 and the University of Maryland. Sidewalks in the vicinity of the site are inadequate, narrow, and often interrupted by poles, signs and other obstructions. The sector plan contains corridor-wide recommendations that

affect this proposal in terms of bicycle and pedestrian improvements. The site is within the “Main Street” area as described in urban design concept in the sector plan on pages 26–27.

The sector plan makes area wide recommendations such as establishing a “bicycle and pedestrian friendly gateway boulevard along the entire US 1 corridor...(p. 34)” To accomplish this, the sector plan recommends that improvements such as street furnishings, sidewalks (that are wide enough to accommodate various users), improved crosswalks, and way-finding signage be implemented throughout the corridor during the development and public improvement processes. The area-wide sector plan recommendations should be adhered to whenever possible. That said, the plan recommends that US 1 should be re-constructed to allow for a wide outside curb lane to accommodate bikes.

Sidewalks

The plan recommends a 5-foot-wide sidewalk be constructed on US 1 to accommodate pedestrians (p. 63). Conformance to this requirement will be reviewed with the detailed site plan and will ultimately be at the determination of the State Highway Administration. Staff recommends that a wide sidewalk be implemented along US 1 in this location. A new wide sidewalk would match the wide sidewalk that is already constructed on the site just to the north of the subject site (University View). A wide sidewalk is recommended because of the heavy pedestrian traffic along this section of the corridor. The State Highway Administration US 1 Alternative contains two typical sections for US 1, which provide for a 5-foot-wide sidewalk.

Bicycle Parking

Per the sector plan recommendation, the “location and number of bicycle racks, lockers and other features shall be determined at site plan review.” The sector plan recommends that all new retail and office development shall provide a minimum of two bicycle parking spaces per 10,000 square feet of gross floor area. If the project is mixed use in nature, then covered parking is recommended. The subject development proposal indicates that 23,700 square feet of retail use is proposed. No office is proposed, but the applicant should provide a minimum of two covered bicycle parking spaces as recommended in the sector plan, which will be reviewed at the time of DSP.

8. **Transportation**—The Transportation Planning Section has reviewed the submitted preliminary plan and traffic impact study prepared in support of the proposed development. The proposed development is planned on a tract of land along Baltimore Avenue (US 1) and is within the approved and adopted College Park US 1 Corridor sector plan.

The findings outlined below are based upon a review of relevant and submitted materials and analysis, all conducted in accordance with the requirements of the approved and adopted College

Park US 1 Corridor sector plan and the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

The sector plan identifies the area in which the subject property is located as Subarea 3b. The property is located on the west side of US 1, between Melbourne Avenue and Navahoe Street. Ingress/egress to the site will be from two proposed locations on US 1. The northern access point is proposed to be a one-way entry to the site from US 1. This access point is proposed to be less than 100 feet south of Navahoe Street. The southern proposed access point which is as the site’s main entrance will be located directly opposite Melbourne Avenue.

The proposed plan proposes the construction of 274 multifamily student housing residential units and 23,700 square feet of commercial retail space. The proposed uses will replace the existing commercial uses totaling approximately 11,486 square feet. Using the generalized trip generation rates for the proposed commercial uses as recommended in the Guidelines and developed trip generation rates for student housing units, the proposed mix development is projected to generate 65 new AM (34 in, 31 out) and 131 new PM (67 in, 63 out) peak-hour vehicle trips.

The traffic impact study submitted in support of the proposed application, assuming 247 multifamily student housing residential units and 23,700 square feet of ancillary commercial uses, was found to be acceptable. Staff forwarded the submitted traffic impact study to the City of College Park and appropriate county and state agencies for their review and comments. The SHA and DPW&T provided comments on the prepared traffic study. This traffic study was prepared in accordance with the recommended procedures outlined in the Guidelines and the sector plan’s recommended adequacy standard for transportation facilities. The sector plan recommends level-of-service (LOS) E as an adequacy standard for any proposed development within the sector plan boundary. This standard is also based on the average peak period levels of service for all signalized intersections along a certain segment of US 1, in this case, the segment between University Boulevard (MD 193) and Paint Branch Parkway/Campus Drive.

Based on the analysis conducted for the subject site and reported in the submitted traffic study, all signalized intersections along this segment of US 1 would operate at an acceptable level of service (LOS E) with average (AM/ PM) peak period corridor critical lane volumes (CLV) of 1257/1161, 1425/1327, and 1485/1443 under existing, background and total traffic which includes the traffic generated by the proposed development, respectively.

The two proposed access locations, if deemed feasible by SHA with the review of the detailed site plan, will be constructed per SHA standards and requirements as determined appropriate through the SHA access permit process. It should be noted that, per the approved project planning study for US 1, SHA will convert US 1 in this area to a divided roadway with left turns allowed only at Paint Branch Parkway/Campus Drive and Berwyn Road intersections. With this planned improvement, both of these proposed access points might be converted to right-in/right-out access driveways by SHA. Considering the site’s close proximity to the University of Maryland, it is recommended that a direct pedestrian link be provided to the existing pedestrian bridge across the Paint Branch Stream Valley. US 1 is proposed as a major collector with 90–110 feet of rights-of-way in the US 1 sector plan. Review of the preliminary plan demonstrates that the

proposed dedication, which ranges from 50 to 59 feet from the existing centerline, shown by the submitted preliminary plan is adequate. Dedication from Parcel 137 will be required at the time of final plat.

Based on the preceding findings, adequate transportation facilities will exist as required by Section 24-124 of the Prince George’s County Code.

9. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Ordinance and CR-23-2003 and concluded the following.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 1	Middle School Cluster 1	High School Cluster 1
Dwelling Units	274 DU	274 DU	274 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	49.92	12.48	24.96
Actual Enrollment	5,983	1,544	4,045
Completion Enrollment	64.32	16.62	33.24
Cumulative Enrollment	1,081.44	270.36	540.72
Total Enrollment	7,178.68	1,843.46	4,643.92
State Rated Capacity	5,646	1,759	4,123
Percent Capacity	127.15%	104.8%	112.63%

Source: Prince George’s County Planning Department, M-NCPPC, July 2008

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,870 and \$13,493 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. Under CB-62-2003, this project is exempt from the school facility surcharge in Section 4-352 of the Prince George’s County Code as long as the project remains student housing.

The Special Projects Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-31-2003 and CR-23-2003.

10. **Fire and Rescue**—The Special Projects Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d), and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

Commercial

The existing engine service at College Park Fire/EMS Station, Company 12, located at 8115 Baltimore Avenue, has a service travel time of one minute, which is within the 3.25-minute travel time guideline.

The existing ambulance service at College Park Fire/EMS Station, Company 12, located at 8115 Baltimore Avenue, has a service travel time of one minute, which is within the 4.25-minute travel time guideline.

The existing paramedic service at College Park Fire/EMS Station, Company 12, located at 8115 Baltimore Avenue, has a service travel time of one minute, which is within the 7.25-minute travel time guideline.

The existing ladder truck service at College Park Fire/EMS Station, Company 12, located at 8115 Baltimore Avenue, has a service travel time of one minute, which is within the 4.25-minute travel time guideline.

Residential

Special Projects staff has determined that this preliminary plan is within the required seven-minute response time for the first due fire station College Park, Company 12, using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn fire and rescue personnel staffing levels.

The Fire/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The proposed development is within the service area for Police District I, Hyattsville.

Commercial

The police facilities test is done on a countywide basis in accordance with the policies of the Planning Board. There are 267,660 square feet of space in all of the facilities used by the Prince George’s County Police Department and the latest population estimate is 825,520. Using 141 square feet per 1,000 residents, it calculates to 116,398 square feet of space for police. The current amount of space, 267,660 square feet, is above the guideline. The proposed development is within the service area for Police District I, Hyattsville.

Residential

The response time standard for emergency calls is ten minutes and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on May 16, 2008.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date July 1, 2008	05/07-05-08	9 minutes	11 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met May 31, 2008.

The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005.

Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A) and (B).

12. **Health Department**—The Health Department notes that a raze permit must be obtained from the Department of Environmental Resources prior to the removal of the existing structures. Any hazardous material located in the structures must be moved and properly stored or discarded prior to the structures being razed.

13. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, 6607-2007-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.

14. **Historic**—A Phase I archeological survey was conducted on the College Park Gateway property on October 5, 2008. A visual survey of the property identified extensive modern disturbance across the eastern and southern portions of the property. A 1.073-acre parcel was investigated by shovel test pit (STP) survey. Sixteen STPs were excavated across the property. No cultural material was recovered in any of the STPs and no archeological sites were delineated.

Due to the lack of cultural materials and intact subsurface features, no further work is recommended on the College Park Gateway property. Staff concurs that no further archeological investigations are necessary on the College Park Gateway property.

15. **Additional Residential Conversion**—The subject property is zoned M-U-I/D-D-O-Z. While the subject application proposes a mixed-use development, any additional residential development above that approved with this application could require a new preliminary plan of subdivision because there are different adequate public facility tests for residential development. There are considerations for recreational components and different impacts on the public facilities which should be evaluated.

16. **Aviation Policy Analysis Zone**—This application is located under the traffic pattern for a small general aviation airport (College Park Airport). This area is subject to Aviation Policy Area regulations adopted by CB-51-2002 (DR-2) as Sections 27-548.32 through 27-548.48 of the Zoning Ordinance. Specifically, the subject property is located in APA-4. APA-6 regulations contain additional height requirements in Section 27-548.42 and purchaser notification requirements for property sales in Section 27-548.43 that are relevant to evaluation of this application. Conditions regarding notice are contained in the recommendation section of this report.

No building permit may be approved for a structure higher than 50 feet in either APA-4 or APA-6 unless the applicant demonstrates compliance with FAR Part 77. In addition, there is a requirement for 30 percent open space on properties located in APA-4. Conformance to restriction on the development of the property will be reviewed with the detailed site plan.

In APA-4 “outer safety area,” a 30 percent open area is required. Section 27-548.41 describes the objective of the open area guidelines as follows:

- (a) **The objective of open area guidelines around airports is to provide strategically located areas under flight paths, to permit a successful emergency landing without hitting an occupied structure and to allow aircraft occupants to survive the landing without serious injury. Open area in Aviation Policy Areas generally refers to stormwater management ponds, field crops, golf courses, pasture lands, streets or parking lots, recreational facilities such as ball parks, or yards, if the area is relatively level and free of objects such as overhead lines and large trees and poles. Because a pilot's discretion in selecting an emergency landing site is reduced when the aircraft is at low altitude, open areas should be one or more contiguous acres.**

It should be noted that both the Federal Aviation Administration and the management of the College Park Airport have indicated some concern about the impact of increasingly tall buildings being proposed within the Aviation Policy Area of the College Park Airport. Several recent applications in this area have come under scrutiny because of their proposed height. Review for conformance to the height requirements will occur with the review of the detailed site plan.

Section 27-548.43(a) requires a General Aviation Airport Environment Disclosure statement be included as an addendum to the contract for rental or sale of any residential property. In addition, Section 27-548.43(b) addresses developments without a homeowners association and requires that a disclosure clause be placed on final plats and deeds for all properties that notifies prospective purchasers that the property has been identified as within approximately one mile of a general aviation airport. The disclosure clause should include the cautionary language from the General Aviation Airport Environment Disclosure Notice.

In this case, perspective tenants of rental units would not be notified specifically. Therefore, in addition to the notice required in Section 27-548.43(b)(2) to purchasers, notice will also be provided in a rental agreement for prospective tenants.

17. **City of College Park**—The College Park City Council, at a regular meeting on November 12, 2008, voted 6-0-0 to recommend approval of the above application subject to 12 conditions as stated in the memo dated November 12, 2008 (Schum to Parker). Nine of the conditions (2–5, 7–9, and 11–12) are included and/or addressed in the recommendation section of this report. Staff does not believe that Conditions 1, 6, and 10 are appropriate to include with this preliminary plan of subdivision application.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Clark, seconded by Commissioner Cavitt, with Commissioners Clark, Cavitt, Squire, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, December 18, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 22nd day of January 2009.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator