



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 15-48

File No. 4-14013

RESOLUTION

WHEREAS, The Kiplinger Washington Editors, Inc. is the owner of an 8.03-acre parcel of land known as Tax Map 41 in Grid F-2 and is composed of a portion of the land known as Parcels D-1 and E-1, Addition to Prince George's Plaza, said property being in the 17th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transit Oriented (M-X-T); and

WHEREAS, on December 23, 2014, The Kiplinger Washington Editors, Inc. filed an application for approval of a Preliminary Plan of Subdivision for 86 townhouse dwelling units lots, 1 parcel for 40 two-family dwelling units, and 11 parcels for open space and private alleys; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-14013 for Kiplinger Property, Lots 1-86, Parcels A-J, and Parcel 2, 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 May 14, 2015, for its review and action in accordance with the Land Use Article of the 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 May 14, 2015, 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 Alternative Compliance AC-15005, and further APPROVED Preliminary Plan of Subdivision 4-14013, including Variance(s) to Section 27-548(h) and Variations to Sections 24-128(b)(12), 24-122(a), and 24-121(a)(4), for the Kiplinger Property, Lots 1-86, Parcels A-J, and Parcel 2, with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to make the following technical corrections:
  - a. Reflect in the general notes all variations, variances, and references to the approved Alternative Compliance.
  - b. Reflect denial of access along the frontage of Parcel 2 on East-West Highway (MD 410) and Toledo Terrace extended.
  - c. Provide the townhouse lot widths at both the front and the rear of all lots.

- d. Remove the public utility easement (PUE) from Public Road 'A' at its intersection with Editors Park Drive.
  - e. Remove " and Retail" from General Note 12.
  - f. Replace "Multifamily" with "Two-Family" in General Note 13.
  - g. Revise General Note 24 to reflect only fee-in-lieu of mandatory dedication with credit for on-site recreational facilities.
2. Development of Phase 2 (86 townhouse lots) shall be in conformance with Stormwater Management Concept Plan 33013-2014-00, approved February 23, 2015, and any subsequent revisions.
  3. An approved stormwater management concept plan to be submitted for the development of Phase 3 (Parcel 2) prior to approval of the DSP for that phase.
  4. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall grant a ten-foot-wide public utility easement (PUE) along all public streets and along either side of a private streets, or a PUE acceptable to the applicable public utility providers, as reflected on the approved detailed site plan.
  5. Prior to signature approval of the detailed site plan (DSP), the applicant shall provide documentation of concurrence to the public utility easement (PUE) layout shown on the DSP from the applicable utility providers, or provide a PUE in conformance with Section 24-128(b)(12) and Section 24-122(a) of the Subdivision Regulations, and reflect that adjustment on the DSP.
  6. Prior to approval of a detailed site plan (DSP), the site plan and the landscape plan shall provide the following, unless a revised Alternative Compliance application or departure is approved with the DSP:
    - a. The full amount of required plant material, as demonstrated in the attached alternative compliance landscape plan exhibit, shall be provided in the Section 4.7 bufferyard along the southern property line.
    - b. The plant material sizes shall be shown as follows: shade trees at 3- to 3.5-inch caliper, ornamental trees at 2.5- to 3-inch caliper, evergreen trees at 8 to 10 feet in height, and shrubs at 24 to 36 inch spread.
    - c. A note provided on the plan indicating that existing trees and/or vegetation retained in fulfillment of the requirements of Section 4.7 shall not contain invasive species.
    - d. Tree species within the 4.7 buffer shall be determined.

- e. Details of a fence system along the southern property line where feasible, in regard to existing easements.
  - f. Trees and fencing outside of the Washington Metropolitan Area Transit Authority (WMATA) permanent underground easement, unless evidence is provided that WMATA concurs with the location within the easement.
7. The DSP landscape plan and/or hardscape plan shall show the locations of the additional trash receptacles on-site in accordance with the requirements of S31 of the Transit District Development Plan.
  8. The DSP shall include notes and a detail regarding the stenciling of storm drain inlets with "Do Not Dump – Chesapeake Bay Drainage" with the submission. Prior to the issuance of the first grading permit, a copy of the sediment and erosion control plan containing notes and details regarding the same stenciling shall be submitted.
  9. Prior to approval of the DSP for Phase 2, a Phase II noise study shall be submitted addressing mitigation for all proposed outdoor activity areas and dwelling units within the unmitigated 65 dBA Ldn noise contour.
  10. Prior to the approval of the DSP, the vibration study dated February 6, 2015 for the Kiplinger property, shall be amended to identify the proposed lots that may be impacted by vibration levels that exceed the Federal Transit Authority's impact level for residential buildings.
  11. Prior to the approval of the building permits by M-NCPPC for proposed Lots 1–32, the applications for those building permits shall be prepared in coordination with a professional engineer with competency in acoustical analysis using the certification template. The certification shall state that the interior noise levels of the affected lots have been reduced through the proposed building materials to 45 dBA Ldn or less for the portions of the residential units within the unmitigated 65 dBA Ldn or higher noise impact area.
  12. Prior to the approval of building permits for the identified townhouse lots exposed to vibration impacts above the FTA levels for residential buildings, the applicant and the applicant's heirs, successors, and/or assignees shall submit evidence to the Environmental Planning Section (M-NCPPC) that the vibration study dated February 6, 2015 as amended, prepared by Phoenix Noise and Vibration, Vibration Analysis results (Study) has been submitted to DPIE.
  13. The following note shall be placed on the final plat for Phase 2 (86 townhouse lots):

"This property is located within close proximity to a metro line and may be subject to 'feelable vibration' impacts."
  14. Prior to approval of any building permit for the subject property, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that the following required adequate

- pedestrian and bikeway facilities, in accordance with Section 24 124.01 of the Subdivision Regulations, have (a) full financial assurances, (b) have been permitted for construction through the applicable operating agency's access permit process, and (c) have an agreed-upon timetable for construction and completion with the appropriate operating agency.
- a. Upgrade Americans with Disabilities Act (ADA) curb ramps and the existing crosswalk and install a pedestrian refuge area in the middle at the intersection of Toledo Terrace and East-West Highway (MD 410). Also install crossing signals that complete and match the existing signals at that intersection.
  - b. Install and upgrade ADA curb ramps and a crosswalk at the intersection of Editors Park Drive and East-West Highway (MD 410). Synchronize crossing signals and add necessary directional signaling.
  - c. Provide Shared lane bicycle markings (Sharrows) along Editors Park Drive in both directions to and from the Nicholas Orem Middle School. This would provide the bicyclists with a safer environment by making the car drivers aware that the road is shared with bicycles. It would also keep them out of the door zone of parked cars.
15. At the time of final plat approval, the applicant shall dedicate right-of-way for Toledo Terrace extended and Public Road "A" to public use, as shown on the approved PPS plan.
16. Prior to the issuance of any building permits the following improvements shall (a) have full financial assurances through either private money or full funding in the Prince George's County or the City of Hyattsville "Capital Improvement Program," (b) have been permitted for construction through the operating agency's permitting process; and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
- a. Public Road 'A' extending from Toledo Terrace to Editors Park Drive with two travel lanes, on-road parking, and wide sidewalks separated by landscape buffers on both sides of the roadway within the dedicated right-of-way shall be constructed and open to traffic.
  - b. Conversion of existing flashing signal to a complete traffic signal with pedestrian phasing and count down displays on all three approaches for the intersection of Editors Park Drive and East-West Highway (MD 410), if deemed necessary by SHA and/or DPW&T.
17. Any nonresidential development of the subject property shall require approval of a new subdivision prior to approval of any building permits.
18. Prior to approval of building permits the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association for Phase 2 (Parcels A-J (2.86±acres)).

19. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees, shall convey to the homeowners association (HOA) the agreed-upon land. Land to be conveyed shall be subject to the following:
  - a. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
  - b. The conveyed land shall not suffer the disposition of construction materials, soil filling, other than the placement of fill material associated with permitted grading operation that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
  - c. Any disturbance of land to be conveyed to a homeowners association (HOA) shall be in accordance with an approved detailed site plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
  - d. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD in accordance with the approved detailed site plan.
  - e. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
20. 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 for the proposed residential development, which may be offset in whole or in part by the proffered preliminary payment of \$50,000 to M-NCPPC if made, and any private recreational facilities approved on the detailed site plan.
21. At the time of detailed site plan for Phase 2 (86 townhouse lots), the development shall be reviewed for architectural and landscaping elements that create hierarchical variation within the private street and alley system.
22. Total development shall be limited to 126 attached residential dwelling units. Any development generating an impact greater than that identified herein shall require a new preliminary plan of subdivision.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on Tax Map 41 in Grid F-2 and is composed of a portion of the land known as Parcels D-1 and E-1—Addition to Prince George's Plaza, recorded in Plat Book NLP 140-86 on September 7, 1988, among the Prince George's County Land Records. The property consists of 8.03 acres within the Mixed Use – Transit Oriented (M-X-T) Zone and the Transit District Overlay (T-D-O) implemented through the 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone* (TDDP). The existing parcels (11.68 acres) were created through a minor final plat for which no preliminary plan of subdivision was required. The purpose of that plat was to recognize the conveyance of land to a governmental agency and incorporate two outlots into the subject property. The original platting of these parcels was pursuant to Plat Book WWW 34-27 for Parcels D and E, recorded in land records in 1959 pursuant to Preliminary Plan of Subdivision 12-2316 (5-59007). The site is currently developed with 205,470 square feet of gross floor area (GFA) for warehouse and office uses. A raze permit has been approved (42841-2014-RZW) for the demolition of the existing structure.

On March 26, 2015, the Planning Board approved a detailed site plan, DSP-14010, (PGCPB Resolution No. 15-26) for the development of 352 multifamily dwelling units on a 3.63-acre portion of Parcels D-1 and E-1 located at the southwest quadrant of the intersection of East-West Highway (MD 410) and Editors Park Drive, off-site to the subject application. That development was exempt from PPS review pursuant to 24-111(c)(4) of the Subdivision Regulations. Approval of a final plat for the development, as well as dedication of a public right-of-way for adequate transportation facilities, was conditioned with that DSP approval. The remaining 8.03-acre portion of Parcels D-1 and E-1 is now the subject of this PPS. The PPS proposes the creation of 86 townhouse dwelling units lots, 1 parcel for 40 two-family dwelling units, and 11 parcels for open space and private alleys. Pursuant to Section 24-107 of the Subdivision Regulations, no land shall be subdivided within the Regional District in Prince George's County until the subdivider or his agent shall obtain approval of a PPS and final plat of subdivision, resulting in this application.

Record Plat WWW 34-27 dedicated Toledo Terrace to public use, which was a 60-foot-wide right-of-way (ROW). Subsequently, Preliminary Plan of Subdivision 4-87229 was approved (PGCPB Resolution No. 87-549) for Outlot A and B, which was the result of the approval of vacation V-87125 for that portion of Toledo Terrace abutting to the east. As previously stated, a minor final plat was approved for the incorporation of the outlots (NLP 140-86), resulting in the creation of Parcel D-1 and E-1. The area previously dedicated as Toledo Terrace is currently encumbered by a private joint access easement recorded in land records in liber 13408 folio 634 Reciprocal Easement and Cooperative Agreement between Home Depot and Kiplinger Washington Editor Inc.

The Kiplinger development project is organized into three development phases. Phase 1 is not a part of this PPS, but Phase 2 and 3 are included. Phase 1 (Parcel 1) includes a 352-unit multifamily building approved on March 26, 2015 by DSP-14010 (PGCPB Resolution No. 15-26), and is exempt from the requirement of a PPS. Parcel 1 (Phase 1), is to be created through a lot-line adjustment between existing Parcels D-1 and E-1 and is located at the northeast quadrant of the intersection of Editors Park Drive and MD 410. As previously stated, right-of-way dedication for adequate access, was conditioned with the approval of DSP 4-14010. The required dedication included an extension of Toledo Terrace to approximately 260 feet south of its intersection with East West Highway (MD 410) along the west side of the Kiplinger development. This extension will terminate at its intersection with proposed Public Road A. Public Road A will extend from Toledo Terrace east to Editors Park Drive at the eastern boundary of the Kiplinger development. Both the lot-line adjustment and the required dedication are exempt from PPS review and will be accomplished through the approval of the minor final plat. The combination of these two actions will result in three separate development land bays – Parcel 1 (Phase 1), for the multifamily development approved through DSP-14010, and then Phase 2 and 3 which are the subject of this PPS. Phase 2 is for the townhouse development (86 lots), and Phase 3 (Parcel 2) is for the proposed two-family attached dwellings. These three phases of development will support a diverse housing stock and create opportunities for home ownership and rental units envisioned by the TDDP.

Phase 2, for 86 townhouse lots, is located on the south side of proposed Public Road A and will span the length of the subject site from east to west from Toledo Terrace to Editors Park Drive. Phase 2 abuts the Green Line metro to the south and is encumbered with a Permanent Underground Easement for WMATA (L. 6525 F. 961), which provides for the underground tunnel for the metro line. The narrow shape and size of the land bay and its adjacency to the green line has presented several design constraints, for which the applicant has requested variances to Section 27-548(h) of the Zoning Ordinance; alternative compliance (AC-15005) for relief from Section 4.7, Buffering Incompatible Uses, of the Landscape Manual; variations from Section 24-128(b)(12) and 24-122(a) of the Subdivision Regulations for alternative PUE layout; and a variation from Section 24-121(a)(4) of the Subdivision Regulations for lot depths of less than 300 feet. All requests have been reviewed and are **APPROVED**.

Phase 3 (Parcel 2-1.5 acres) is located north of proposed Public Road A and west of Phase 1, in the southeast quadrant of the intersection of MD 410 and Toledo Terrace. Phase 3 is for the development of 40 two-family dwellings. The layout (including access, building location, and associated parking) will be reviewed at the time of DSP for this single parcel.

The subject site is located within Subarea 7 of the TDDP and is located within a "Regional Transit District" of the Prince George's Plaza area, as designated in the *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035). This proposed development conforms to the land use recommendation for mixed-use development identified within Plan Prince George's 2035 and the TDDP.

3. **Setting**—The subject site is located along the south side of East-West Highway (MD 410), approximately 500 feet west of its intersection with Editors Park Drive. To the north, east, and west of the site is C-S-C/T-D-O-zoned property developed was various retail uses. The Prince George’s Plaza is located north of the site, across MD 410. To the south of the site is O-S/T-D-O and R-55/D-D-O-zoned property upon which Nicholas Orem Middle School and Edward M. Felegy Elementray School are located.
4. **Development Data Summary**—The following information relates to the subject PPS application and the proposed development.

	<b>EXISTING</b>	<b>APPROVED</b>
Zone	M-X-T/T-D-O	M-X-T/T-D-O
Use(s)	205,470 square feet of GFA for warehouse and office use	Townhouse, two-family dwelling-units
Acreage	8.03	8.03
Lots	0	86
Outlots	0	0
Parcels	2	12
Dwelling Units:	0	86 townhouse 40 two-family
Public Safety	No	No
Variance	No	(27-548(h))
Variation	No	(24-128(b)(12)) (24-121(a)(4)) (24-122(a))
Alternative Compliance		Section 4.7

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on March 13, 2015. As discussed in the report and as required by Section 24-113(b) of the Subdivision Regulations, the requested variation to Section 24-128(b)(12) (private PUE), and Section 24-122 (public PUE) was accepted on December 23, 2014 and heard on March 13, 2015. Additionally, the requested variation to Section 24-121(a)(4) (lot depth) was accepted on January 6, 2015 and heard on February 27, 2015. Both cases were heard at the scheduled SDRC meetings, no less than 30 days prior to the Planning Board hearing date.

5. **Previous Approvals**—On March 26, 2015, the Planning Board approved an amendment to CSP-11002 (PGCPB Resolution No. 13-20(A)) (which includes the subject property), in conjunction with the approval of DSP-14010 (which does not include the subject property), pursuant to the regulations and procedures for expedited transit-oriented development. The CSP resolution contains 13 conditions and the following conditions in **BOLD** are related to this PPS review:



1. **Prior to signature approval of the conceptual site plan (CSP), the plans shall be revised to:**
  - c. **Eliminate direct access to East-West Highway (MD 410) from the CSP. Notwithstanding the foregoing statement, if at the time of DSP the Applicant desires to propose direct access to East-West Highway the proposed access location and design will be subject to review and approval by State Highway Administration, MNCPPC Transportation Division and Urban Design.**

Denial of access to East-West Highway (MD 410) is conditioned.

2. **Prior to acceptance of the detailed site plan (DSP), the applicant shall meet with the Department of Parks and Recreation (DPR) to develop a mutually agreeable Parks and Recreation Facilities Program for the community.**
3. **Prior to approval of a DSP, the plans shall include the following:**
  - c. **The requirement for mandatory dedication (P34) and/or fee-in-lieu will be determined at the time of DSP review.**

Review for mandatory dedication of parkland (Conditions 2 and 3 above) is required at the time of PPS, rather than DSP. Mandatory development requirement (MDR) P34 of the 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone (TDDP)*, however, states the following:

**P34 At the time of Preliminary Plat of Subdivision or Conceptual or Detailed Site Plan, the Department of Parks and Recreation (DPR) will review the site plan related to the development's impact on existing public parkland and recreation facilities and the need for additional parkland and recreation facilities. Any residential development shall meet the mandatory dedication requirements of the County Subdivision Ordinance (Subtitle 24).**

The Subdivision Section worked closely with Department of Parks and Recreation (DPR) to identify the necessary actions to meet the mandatory dedication requirement of Subtitle 24.

8. **Prior to certification of the conceptual site plan, the CSP shall be revised to correctly show the location of the unmitigated 65 dBA Ldn noise contour at 168 feet from the centerline of East-West-Highway (MD 410), or provide a Phase I Noise Study that determines the location of the unmitigated 65 dBA Ldn noise contour.**
9. **Prior to the acceptance of the DSP, the plans shall reflect the unmitigated 65 dBA Ldn noise contour in accordance with the CSP.**

10. **At the time of building permit issuance, applications for building permits shall be prepared by a professional engineer with competency in acoustical analysis using the certification template. The certification shall state that the interior noise levels have been reduced through the proposed building materials to 45 dBA Ldn or less for the portions of the residential units within the unmitigated 65 dBA Ldn or higher noise impact area.**

The unmitigated 65 dBA Ldn noise contour lines (upper and lower level) for East-West Highway (MD 410), as well as Washington Metropolitan Area Transit Authority (WMATA) metro transit line to the south of the site, have been provided on the PPS. A Phase 1 Noise Study has also been submitted for review, which is further discussed in the Environmental Planning finding.

6. **Community Planning**—This subject site is located within a “Regional Transit District” of the Prince George’s Plaza area, as designated in the *Plan Prince George’s 2035 Approved General Plan* (Plan Prince George’s 2035). The site is also located within Subarea 7 of the 1998 *Approved Transit District Development Plan for the Prince George’s Plaza Transit District Overlay Zone* (TDDP). The TDDP calls for mixed-use development at this site. This application conforms to the land use recommendation for mixed-use development identified within Plan Prince George’s 2035 and the TDDP.

#### **Planning Issues**

The applicant is proposing to construct 40 two-family dwelling units located on Parcel 2, at the corner of MD 410 and Toledo Terrace extended. The two-family dwelling units will include some surface parking area for visitors and residents. On page 29 of the Prince George’s Plaza TDDP, the following is stated with respect to pedestrian walkways for future land uses: “All pedestrian walkways should be designed to minimize vehicular/pedestrian conflicts.” A convenient pedestrian system for the two-family dwellings to be used by the residents and visitors of the area will be reviewed at the time of DSP.

The applicant is proposing 86 townhouse dwelling unit lots with the subdivision. The TDDP stresses the importance of providing avenues for pedestrian activity in the future. The applicant has worked with the M-NCPPC and the City of Hyattsville to determine adequate pedestrian facilities within the right-of-way for Public Road A, which was conditioned with DSP-14010. This condition is also carried forward with the PPS. Townhouse Lots 39-44 are oriented toward the parking garage of the multifamily building. The TDDP (page 112) states that “the proposed architecture shall be enduring, high-quality and distinctive.” The architectural relationship between the townhouses and the parking garage, however, has been addressed through the approval of DSP-14010, which required that the architectural elevations of the parking garage be specially treated “through the use of textured paint to match the color and pattern of the multifamily building, including additional considerations, such as art work, vegetation, or screening on the interior elevation of the parking garage.” Review of the architecture for the townhouse dwelling units will occur at the time of DSP.

7. **Urban Design**—The plan is in conformance with the conditions of CSP-11002 (PGCPB Resolution No. 13-20(A)) applicable to the PPS. Variances to Section 24-548(h) of the Prince George's County Zoning Ordinance, as well as alternative compliance for non-compatible uses, are discussed further. Conformance to the regulations of the 2010 *Prince George's County Landscape Manual* and the Prince George's County Tree Canopy coverage Ordinance will be determined at the time of DSP.

The applicant has proposed a combination of private streets and alleys of similar width to serve the townhouse dwelling units sited along the southern half of the property. The applicant has proposed structural elements, such as elevated curb cuts for alleys and ornamental features, to distinguish private alleys to be used for garage access, from private streets that are to be used for general vehicular and pedestrian circulation. These features shall be reviewed at the time of DSP. Staff has also worked with the applicant to create HOA parcels between three of the townhouse groups (Lots 12-17, Lots 28-38, and Lots 51-58), to provide more open space amenities for the residents of the development. Design of these open space HOA parcels will be further reviewed at the time of DSP.

8. **Variance**—Section 27-239.03 of the Zoning Ordinance authorizes the Planning Board to grant variances in conjunction with its approval of a zoning case, site plan, or other request, pursuant to the provisions in Section 27-230 of the Zoning Ordinance.

The applicant has requested variances to Section 27-548(h), Regulations, related to the proposed townhouse dwelling unit lots. The variance request is for relief from the strict compliance to the regulations in regards to the following:

- a. Section 548(h), minimum lot size (1,800 square feet)
- b. Section 548(h), maximum number of dwelling units in a building group (six)
- c. Section 548(h), minimum width of interior unit (20 feet)
- d. Section 548(h), minimum width of end unit (24 feet)

Section 27-548(h), Regulations, states the following:

- (h) Townhouses developed pursuant to a Detailed Site Plan for which an application is filed after December 30, 1996, shall be on lots at least one thousand eight hundred (1,800) square feet in size, and shall have at least sixty percent (60%) of the full front façades constructed of brick, stone, or stucco. In addition, there shall be no more than six (6) townhouses per building group, except where the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than six (6) dwelling units (but not more than eight (8) dwelling units) would create a more attractive living environment or would be more environmentally sensitive. In no event shall the number of building groups containing more than six (6) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development, and the end units on such building groups shall be a minimum of**

twenty-four (24) feet in width. The minimum building width in any continuous, attached group shall be twenty (20) feet, and the minimum gross living space shall be one thousand two hundred and fifty (1,250) square feet. For the purposes of this Subsection, gross living space shall be defined as all interior building space except the garage and unfinished basement or attic area. The minimum lot size, maximum number of units per building group and percentages of such building groups, and building width requirements and restrictions shall not apply to townhouses on land any portion which lies within one-half (½) mile of an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority and initially opened after January 1, 2000. In no event shall there be more than ten (10) dwelling units in a building group and no more than two (2) building groups containing ten (10) dwelling units. For purposes of this section, a building group shall be considered a separate building group (even though attached) when the angle formed by the front walls of two (2) adjoining rows of units is greater than forty-five degrees (45°). Except that, in the case of a Mixed-Use Planned Community, there shall be no more than eight (8) townhouses per building group, except when the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than eight (8) dwelling units (but not more than ten (10) dwelling units) would create a more attractive living environment or would be more environmentally sensitive. In no event shall the number of building groups containing more than eight (8) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width. The minimum building width in any continuous, attached group shall be twenty-two (22) feet, and the minimum gross living space shall be one thousand two hundred and fifty (1,250) square feet. For the purposes of this Subsection, gross living space shall be defined as all interior building space except the garage and unfinished basement or attic area. Garages may not dominate the streetscape. Garages that are attached or incorporated into the dwelling shall be set back a minimum of four (4) feet from the front façade and there shall not be more than a single garage, not to exceed ten (10) feet wide, along the front façade of any individual unit. Garages are preferred to be incorporated into the rear of the building or freestanding in the rear yard and accessed by an alley. Sidewalks are required on both sides of all public and private streets and parking lots. At the time of Detailed Site Plan, the District Council may approve a request to substitute townhouses, proposed for development as condominiums, for multifamily dwellings that were required as a condition of approval in a Conceptual Site Plan approved prior to April 1, 2004. Such substitution shall not require a revision to any previous plan approvals. Further, such townhouses are subject to all other requirements of the Zoning Ordinance.

Section 27-548(h) states that "townhouses shall be on lots at least 1,800 square feet in size." The PPS propose lots ranging from 864 to 1,932 square feet in size. Of the 86 lots, Lot 79 (1,932 square feet) meets the minimum lot size requirement. The remaining 85 lots (864 to 1,649 square feet) require a variance for minimum lot size. Section 27-548(h) also

states that "there shall be no more than six (6) townhouses per building group, except where the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than six (6) dwelling units (but not more than eight (8) dwelling units) would create a more attractive living environment or would be more environmentally sensitive. In no event shall the number of building groups containing more than six (6) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width." Two townhouse groups (Lots 51-58 and 59-66) are proposed to exceed the maximum number of townhouses per building group requirement. The resulting percentage of townhouse groups that would exceed the requirement is 21 percent, which exceeds the maximum percentage of 20 percent. Six end units are located within these sticks. Of the six, two lots (Lots 58 and 59) do not have the minimum width required to accommodate a 24-foot-wide townhouse, as required by this section. Lastly, Section 27-548(h) states that "the minimum building width in any continuous, attached group shall be twenty (20) feet." Of the 56 interior townhouse unit lots proposed with the PPS, all 56 lack the minimum width required to accommodate a 20-foot-wide townhouse as required by this section.

Therefore, four variances are required to be approved with this Section 27-548(h) for lot size of dwelling units in a building group, width of interior units, and width of end units.

**Section 27-230. Criteria for granting appeals involving variances.**

- (a) **A variance may only be granted when the Board of Appeals finds that:**
- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The subject property has been developed since the 1960s. Over time with urban growth, multiple utilities and their associated easements have been continually added to the site. The existing easement holders are WSSC, PEPCO, WMATA, and private owners. These easements support water, sewer, storm drains, electric, and Metro rail. During the late 1980s and early 1990s the Metro Green Line was constructed under the southeast corner of the property. Additional easements were added to support the Metro train. These conditions create an extraordinary situation that is unique to the property, generally not applicable to other properties, and severely restricts the ability to develop approximately ten percent of the site.

- (2) **The strict application of the subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

The strict application of the subtitle will render the property economically nonviable and make it difficult to achieve Master Plan and TDOZ goals to increase the use of transit facilities, maximize the return on investment in a transit system, encourage appropriate development near transit stations with coordinated urban design elements, and increase local tax revenues. Without the approval of the variances, the density and urban design goals of the TDDP will not be achieved, resulting in an undue hardship on the property owner.

**(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The granting of this variance will not impair the intent, purpose, or integrity of the *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) or the 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overly Zone* (TDDP). Rather, the approval of this variance will allow the property to continue to act as part of a mixed use development, thus contributing to the goal of providing increased opportunities for higher density dwellings in the MD 410 corridor and within the TDDP area. This development will become part of a vibrant, walkable, regional-serving center with a robust economic and employment base and a varied housing stock, with diverse mixed-income communities.

Based on the preceding analysis, the variance(s) to Section 27-548(h), Regulations, of the Prince George's County Zoning Ordinance for minimum lot size of 1,800 square feet (85 Lots); maximum number of townhouses within a building group six (two groups), minimum unit width on interior units of 20 feet (56 lots); and minimum lot width of end units of 24 feet (two lots) is **APPROVED**.

9. **Alternative Compliance**—The applicant has filed this request for Alternative Compliance from Section 4.7 for a reduction in the width of the required landscape yard between the proposed single-family attached units, the Board of Education (BOE) property, and the WMATA property (rail line) to the south because the lotting pattern proposed along this property line would preclude the implementation of conformance to the Landscape Manual. The entire development will be subject to Sections 4.1, Residential Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and, Section 4.10, Street Trees along Private Streets, of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) because it will include the construction of new townhouse units on the subject property.

To facilitate the review of the plan by the Alternative Compliance Committee, the applicant has submitted an alternative compliance landscape plan exhibit companion to the PPS to address the required Section 4.7 bufferyard along the southern property line only. Full conformance with the other requirements of the Landscape Manual has not been addressed by the applicant at this time and will be further reviewed at the time of DSP.

REQUIRED: 4.7 Buffering Incompatible Uses, along the southern property line, adjacent to rail lines at or above ground level.

Length of bufferyard	988 feet
Minimum building setback	25 feet*
Landscape yard	20 feet*
Bufferyard occupied by existing trees	33 percent
Fence or wall	Yes (partial)
Plant Units (80 per 100 l. f.)	527*

**\*Including a 50% reduction for proposed fencing**

PROVIDED: 4.7 Buffering Incompatible Uses, along the southern property line, adjacent to rail lines at or above ground level.

Length of bufferyard	988 feet
Minimum building setback	25 feet**
Landscape yard	3-40 feet
Bufferyard occupied by existing trees	33 percent
Fence or wall	Yes (partial)
Plant units	527

REQUIRED: 4.7 Buffering Incompatible Uses, along the southern property line, adjacent to an existing school.

Length of bufferyard	415 feet
Minimum building setback	20 feet
Landscape yard	15 feet
Bufferyard occupied by existing trees	N/A
Fence or wall	Yes (partial)
Plant Units (60 per 100 l. f.)	297*

**\*Including a 50% reduction for proposed fencing.**

PROVIDED: 4.7 Buffering Incompatible Uses, along the southern property line, adjacent to an existing school.

Length of bufferyard	415 feet
Minimum building setback	20 feet**
Landscape yard	15–30 feet
Bufferyard occupied by existing trees	N/A
Fence or wall	No
Plant units	297

\*\*A preliminary plan of subdivision does not show building locations, however, through the review of a conceptual layout, it has been determined that the building(s) will not encroach upon the minimum setback.

#### **Justification of Recommendation**

The AC is a companion case to this PPS. The applicant is requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, of the Landscape Manual along the southern property line to provide a variable width landscape yard that ranges from 3 to 40 feet in width. A Section 4.7, Type 'D' bufferyard, which includes a 50-foot-wide building setback and a 40-foot-wide landscaped yard, is required along the western portion of the southern property boundary adjacent to an active WMATA rail line. A Section 4.7, Type 'C' bufferyard, which includes a 40-foot-wide building setback and a 30-foot-wide landscaped yard, is required along the eastern portion of the southern property boundary adjacent to a school use (Nicholas Orem Middle School). The Landscape Manual allows for the entire bufferyard, including the building setback, the landscape yard, and the quantity of plant material, to be reduced by 50 percent with the inclusion of a six-foot-high opaque fence or wall in the Developed Tier. The applicant provided the following justification for this request:

“The site is surrounded by existing development on all sides and is an infill site. The site also has the Metro Green Line traversing the southeastern corner of the site. The southern portion of the site is riddled with multiple easements from WMATA, WSSC, PEPCO, and storm drain easements that severely disrupt the normal design process. The area along Private Road 'C' has a bufferyard width of 14–18 feet wide instead of the required 20 feet. Within this area there are crucial storm drain lines that provide management and outfall for up to half of the site. To remove or relocate this important connection would be time consuming and costly to the project. The proposed private road and the associated walk allows for a seamless transition and connection for utilities, emergency vehicles, and overall connectivity. The second area along Private Road 'B' ranges from three feet to 20 feet wide. Underlying this area is an existing WMATA easement that provides infrastructure for the rail lines and causes severe development restrictions to the site. Again, this private road allows for a much needed second connection and circulation system for the site. The existing easements dictate the locations of new easement locations. Since this site is unusually shaped, situated between existing development, and has an



existing Metro rail that runs under the site, it makes it a proper candidate for alternative and creative design solutions.”

The review of the alternative compliance application is based upon a landscape exhibit that has been prepared with the preliminary plan. This determination is based upon the understanding that the full amount of required plant material will be provided along the southern property line. At the time of DSP, the plant species within this buffer may be adjusted, and fencing details will be determined. The Planning Board requires that the applicant provide details of an attractive fence for review at the time of DSP, and notes that it might be appropriate for the screen fencing to transition to an estate-style fence that may allow some mitigated views beyond the property line.

The Section 4.7 schedule indicates that the applicant intends to retain an area with existing vegetation to meet a portion of the Landscape Manual requirements. Existing trees and/or vegetation retained in fulfillment of the requirements of Section 4.7 cannot contain invasive species. The required removal of existing invasive species may result in an inadequate buffer width. This buffer should be supplemented with proposed trees, as necessary, to maintain bufferyards that conform to the requirements of the Landscape Manual.

A significant consideration in the review of the Alternative Compliance application is the existence of a WMATA permanent underground easement which traverses the southern portion of the site and contains the underground tunnel for the rail line. As the applicant states, this easement provides infrastructure for the rail lines and causes severe development restrictions on the site. While the application does not propose fencing within the easement, it does propose three evergreen trees and seven ornamental trees, among shrubs and other improvements, within the easement. Due to the important function of the easement, at the time of DSP, the three evergreen and seven ornamental trees shown within the permanent underground easement on the landscape exhibit shall be located outside of the permanent underground easement, unless evidence is provided that WMATA concurs with their location within the easement.

The Planning Board agrees that the request is justified. The existing easements, proposed easements, and the intensity of the proposed development, which is desirable adjacent to metro (the development is within a quarter mile of the Prince George's County Plaza Metro), creates a condition where standard compliance with Section 4.7 along the southern property line cannot be met. The application proposes approximately 1,063 linear feet of fencing along the southern property line between the residential lots and the adjacent incompatible uses, where the fencing is not in conflict with the existing WMATA easement. As further support for the alternative compliance request, the applicant proposes to plant larger shade trees (3- to 3.5-inch caliper), ornamental trees (2.5- to 3-inch caliper), evergreen trees (8 to 10 feet in height), and shrubs (24- to 36-inch spread). These larger than normal sizes of trees and shrubs will provide for an immediate appearance of buffering between the uses. Further, given the provision of a fence and the larger plant materials, the Planning Board finds the applicant's proposed alternative compliance measures to be equally effective as normal compliance with Section 4.7 of the Landscape Manual.

The Planning Board **APPROVES** Alternative Compliance for Section 4.7 of the 2010 Prince George's County Landscape Manual, as shown in the landscape plan exhibit, along the southern property line, for Kiplinger, Lots 1-86 and Parcels A-J, with conditions.

10. **City of Hyattsville**—The PPS is located within the municipal boundary of the City of Hyattsville and was referred to the City for review and comments accordingly. The City of Hyattsville conducted a public hearing for the PPS on February 19, 2015. The City voted to recommend approval of the PPS, with the following conditions:

- (1) **The City supports the public dedication of both Toledo Terrace and the primary roadway, provided that the roadways meet the construction standards as defined by Prince George's County DPW&T. the applicant warrants the street trees for a period of up to five (5) years from certification of the site plan. Furthermore, the publicly dedicated roadways [that] are to [be] bonded by the applicant and the City will be reimbursed for any replacement costs for signage for a period of five years from the date of certification of the site plan;**

Public right-of-way dedication for Toledo Terrace and the primary roadway (Public Road A) is conditioned with approval of this PPS. However, construction and maintenance of the roadways is outside of the scope of this PPS review. Conformance to this condition will be reviewed by the City at the time of permit review, as the City has jurisdiction over dedicated public streets within its municipal limits.

- (2) **The City supports the concept for developing a recreational greenway along the southern border of the property as both an amenity and as an opportunity for connectivity to adjacent parcels;**

The possible future location and siting of a recreational greenway along the southern border of the property will be reviewed at the time of DSP for conformance with the applicable regulations of the 2010 *Prince George's County Landscape Manual*.

- (3) **As a condition of approval, the applicant agrees to participate in the City residential parking program.**

This condition will be required by the City as a part of their permitting authority, and is not required for adequacy of this PPS.

- (4) **The City requires that the applicant fully signalize the traffic signal at the intersection of East-West Highway and Editors Park Drive.**

This condition is a recommended condition of approval for the PPS, as required for the fulfillment of adequate transportation facilities (Section 24-124).

- (5) **The applicant will be required to design and construct all exterior lighting systems to Pepco standard and have Pepco accept responsibility for maintenance of the lighting system. The exterior lighting must also be focused on the site and minimize impacts to the evening sky.**

The design, construction, and maintenance of exterior lighting systems will be reviewed by the City and Potomac Electric Power Company (PEPCO) at the time of permit. On-site lighting will also be reviewed with the DSP.

11. **Environmental**—The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 of the Prince George's County Code that came into effect on September 1, 2010 because the application is for a new PPS. The site is exempt from the Woodland and Wildlife Habitat Conservation Ordinance (WCO). A Standard Letter of Exemption (S-015-15) was issued on April 25, 2010, and a Natural Resources Inventory Equivalency Letter (NRI-090-11) was also issued on April 25, 2010.

A review of the available information indicates that no wetlands, streams or 100-year floodplain are found to occur on the subject project area. The predominant soils found to occur according to the USDA NRCS Web Soil Survey are Codorus and Hatboro soils, Codorus-Hatboro-Urban land complex, Russett-Christiana-Urban land complex, and Urban land soils series. According to available information, Marlboro clay does not occur on or in the vicinity of this site. According to the Sensitive Species Project Review Area (SSSPRA) map received from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or near this property. The site drains to the south towards an adjacent off-site unnamed stream, which drains to the Northwest Branch and is part of Anacostia watershed. The site has frontage on East-West Highway (MD 410), a master planned arterial road. This roadway is evaluated for traffic-generated noise when residential uses are proposed. East-West Highway (MD 410) is not designated a scenic or historic road.

#### **Conformance to Plan Prince George's 2035**

The site is located within the Established Communities area of the Growth Policy Map and Environmental Strategy Area 1 of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan*.

#### **Master Plan Conformance**

The 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone (TDDP)* contains Mandatory Development requirements and guidelines that are required to be evaluated with this application. The mandatory requirements in the TDDP are indicated by a "P" or an "S." The site design guidelines are criteria for development to be used in the review of this application. The following text in **BOLD** is the text from the TDDP that are environmental nature and the plain text provides comments on the plan conformance:

### **Stormwater—Mandatory Development Requirements**

**P25—Any Development shall provide for water quality and quantity control in accordance with all Federal, State and County regulations. Bio-retention or other innovative water quantity or quality methods shall be used where deemed appropriate.**

The project has received Stormwater Management Concept approval (33013-2014-00) on February 23, 2015. According to the approval letter, bioretention, microbio-retention and 100-year attenuation is required. The concept plan shows 1 existing infiltration trench and 1 proposed infiltration trench. This concept approval includes only Phase 2 of the Kiplinger development. Stormwater management concept approval for Phase 3 has not been submitted. Development of Parcel 2 (Phase 3) is not proposed at this time and it is not likely that future development in this phase would result in a significant change to the shape and size of the parcel. Therefore, submittal of the SWM concept plan approval shall take place at the time of DSP, at which time the siting of the buildings will be reviewed and approved. Only Phase 2 and 3 are a subject of this PPS. Per the stormwater management concept approval (31085-2014-00) for the previously approved Phase 1 multifamily building (DSP-14010), in the northeast portion of the Kiplinger development, four micro-bioretention facilities are proposed.

**P26—Where stormwater management cannot be provided for existing developed properties, a mandatory 15 percent green space requirement shall be provided. The green space can be incorporated into the mandatory 10 percent afforestation required if it occurs on the actual property.**

A copy of the recent stormwater concept plan (33013-2014-00) shows an infiltration trench located in the southwest portion of the site (Phase 2), which will handle a portion of the sites on-site stormwater with the rest directed to an off-site existing County storm drain system. There are no green space areas proposed as part of the proposed development. The mandatory green space requirement will be met through on-site landscaping.

**S31—At the time of Detail Site Plan, the number of trash cans and locations shall be shown on the plan. Trash receptacles should be placed in strategic locations to prevent litter from accumulating in and around the proposed development.**

**S32—Prior to the final inspection and sign off of permits by the Sediment/Stormwater or Building Inspector, and storm drain inlet associated with the development and all inlets on the subject subarea shall be stenciled with “Do Not Dump, Chesapeake Bay Drainage.” The Detailed Site Plan and the Sediment Control Plan (in the sequence of construction) shall contain this information.**

Conformance to S31 and S32 will be determined at the time of DSP. Prior to approval of the detailed site plan, the landscape plan and/or hardscape plan shall show the locations of the additional trash receptacles on-site in accordance with the requirements of S31 of the Transit District Development Plan. Also, prior to approval of the detail site plan, the DSP shall include

notes and a detail regarding the stenciling of storm drain inlets with "Do Not Dump – Chesapeake Bay Drainage" with the submission. Prior to the issuance of the first grading permit, a copy of the sediment and erosion control plan containing notes and details regarding the same stenciling shall be submitted.

#### **Woodland Conservation–Mandatory Development Requirements**

**S33—Afforestation of at least 10 percent of the gross tract shall be required on all properties within the Prince George's Plaza Transit District currently exempt from the Woodland Conservation and Tree Preservation Ordinance. Afforestation shall occur on-site or within the Anacostia watershed in Prince George's County, with priority given to riparian zones and nontidal wetlands, particular within the Northwest Branch Sub-watershed.**

This property is not subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because it contains less than 10,000 square feet of existing woodland and has no previously approved tree conservation plans. As such, the site is required to provide ten percent afforestation either on-site or within the Anacostia watershed. The overall gross tract area of the site is 11.68 acres (Phases 1–3). The requirement for afforestation for the subject site is 1.17 acres for all three phases.

The intent of this requirement was to increase the tree canopy coverage within the Anacostia Watershed by planting additional trees. In the majority of past cases in the TDDP, S33 has been addressed through the provision of woodland conservation at off-site locations due to the desired density. In the majority of those cases, the applicants were not able to meet the requirement within the Anacostia watershed because of the absence of viable planting sites. Before being allowed to meet the requirement elsewhere in the county, these applicants were required to show due diligence in seeking sites within the Anacostia watershed. In other cases, particularly within the vicinity of the subject site, the Prince George's County Planning Board and County Council have accepted the on-site tree canopy through the landscaping of trees as an accepted method of meeting this requirement. This requirement has been recently codified in the new tree canopy coverage regulations contained in Subtitle 25, Division 3, which requires ten percent tree canopy coverage for sites zoned M-X-T, and will be reviewed with the Type 2 tree conservation plan (TCP).

#### **100-Year Floodplain–Mandatory Development Requirements**

**P28—Any new development or reconstruction of existing development shall be in conformance with the Prince George's County Floodplain Ordinance.**

**P29—No development within the 100 year floodplain shall be permitted without the express written consent of the Prince George's County Department of Environmental Resources.**

**P30—If the development is undergoing subdivision, approval of a variation request shall be obtained for proposed impacts to the floodplain.**

The site does not contain areas of 100-year floodplain.

#### **Nontidal Wetlands—Mandatory Development Requirements**

**P31—If impacts to nontidal wetlands are proposed, a Maryland Corps of Engineers Joint Permit Application shall be required and, where required, issuance of the permit.**

**P32—If impacts to nontidal wetlands are proposed, a State Water Quality Certification pursuant to Section 401 of the Clean Water Act shall be required from the Maryland Department of the Environment.**

The site does not contain areas of wetlands.

#### **Noise Impacts—Mandatory Development Requirements**

**P33—Each Preliminary Plat, Conceptual and/or Detailed Site Plan shall show a 65 dBA (Ldn) noise contour based upon average daily traffic volumes at LOS E. Upon plan submitted, the Natural Resource Division shall determine if a noise study is required based on the delineation of the noise contour.**

**P34—If it is determined by the Natural Resource Division that a noise study is required, it shall be reviewed and approved by the Natural Resource Division prior to approval of any Preliminary Plat of Subdivision, Conceptual and/or Detailed Site Plan. The study shall use Traffic volumes at LOS E and include examination of appropriate mitigation techniques and the use of acoustical design techniques. Furthermore, a typical cross-section profile of noise emission from the road to the nearest habitable structure is required.**

Policies contained in the Plan Prince George's 2035 call for the reduction of adverse noise impacts to meet State of Maryland noise standards. Noise is generally regulated along roads with a classification of arterial or higher, and for residential uses. The site is adjacent to an arterial road East-West Highway (MD 410) that generates noise levels over 65 dBA Ldn. The site is also adjacent to a metro transit right-of-way that produces ground-borne vibration, but no ground level adverse noise impacts, as discussed further.

#### **Noise-Related Impacts**

The following design requirements are specified in Section 24-121(a)(4):

- (a) The Planning Board shall require that proposed subdivisions conform to the following:**

- (4) **Residential lots adjacent to existing or planned roadways of arterial classification shall be platted with a minimum depth of one hundred and fifty (150) feet. Residential lots adjacent to an existing or planned roadway of freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate.**

The project proposes to construct 40 two-family residential units on proposed Parcel 2, which has frontage on East-West Highway (MD 410), which is identified as an arterial roadway that has enough traffic to produce noise levels above 65 dBA Ldn. This area is located in a heavily-used and growing commercial area along East-West Highway. Using the EPS Noise Model and applying an average daily traffic (ADT) count at build-out of 26,771, as indicated on the Maryland State Highway traffic volume map, and a posted traffic speed of 40 mph, the unmitigated 65 dBA Ldn noise contour is located approximately 168 feet from the center line of East-West Highway which will impact the interior of several of the proposed residential two-family units on Parcel 2.

A Phase 1 Noise Study prepared by Phoenix Noise and Vibration was received by the Environmental Planning Section on February 10, 2015. The study provided an analysis of noise impacts from East-West Highway and the adjacent metro rail tracks on the proposed townhouse lots. Because the proposed two-family units are to be located on a single parcel (Parcel 2), building locations and outdoor activity areas will be established at the time of DSP. Further noise analysis will also occur, accordingly, at the time of DSP. A lot depth variation was not required for Parcel 2 because the proposed parcel meets the 150-foot lot depth requirements of Section 24-141(a)(4).

The measured unmitigated lower and upper level 65 dBA Ldn noise contours are shown on the PPS, consistent with the contours provided in the report. Based on the PPS, 32 townhouse lots in Phase 2 will be impacted by upper level noise from the metro tracks above the state standard. The plan also shows that Parcel 2 (Phase 3), upon which the two-family dwelling units are proposed, will also be impacted.

Acceptable interior noise levels of 45 dBA Ldn or less may be achieved with appropriate shell construction methods and is conditioned for both Phase 2 and 3. The acceptable noise level for outdoor activity areas is 65 dBA Ldn or less; however, outdoor activity areas were not identified on the submitted plans for Phase 2 and 3. No townhouse lots will be affected by noise from East-West Highway (MD 410). Adequate interior noise mitigation for the proposed residential dwelling units impacted is conditioned. The DSP shall identify all proposed outdoor activity areas and will ensure that relocation of these areas or mitigation of noise impacts occurs through the DSP review for Phase 3.

#### **Vibration-Related Impacts**

As stated, this site is adjacent to a Metro commuter rail line to the south, which is both above ground and underground at the site location. The commuter service will generate vibration

impacts. Plan Prince George's 2035 addresses noise, but it does not address vibrations caused by commuter rail lines. A vibration study prepared by Phoenix Noise and Vibration was received on February 10, 2015. According to the report, measurements for the study were conducted on January 13, 2015. The report provided a written analysis of the vibration measurements at the subject site and clarified the criteria and thresholds of vibration measurements with regard to predicting annoyance from vibration impacts in residential areas.

According to the study, vibration impacts were measured using the Federal Transit Administration's (FTA) manual – "Transit Noise and Vibration Impact Assessment" of May 2006. Typical vibration impacts for commuter trains are determined to have a frequency of eight to 80 hertz (HZ) with vibration events lasting approximately ten seconds. The FTA manual applies a threshold of 72 velocity decibels (VdB) or less as "not feelable, but ground borne vibration may be audible inside quiet rooms." The threshold for human perception is 65 Vdb for "barely perceptible" and 75 Vdb for "distinctly perceptible." Vibration readings were collected using three PCB low noise accelerometers and a Sinus Harmonie multichannel frequency analyzer coupled with a laptop computer. Sample readings were collected at five locations on-site. It was determined that a train passes the Kiplinger site every six minutes, which is considered an "event." The results of the measurements found that two of the five locations tested, which were closest to the tracks, received vibration impacts that exceeded the 72 VdB threshold. Sixty-four (64) townhouse lots (Lots 7-38, 45-66, and 73-82) will be exposed to ground-borne vibrations according to the study and a supplemental e-mail (dated March 10, 2015), provided by the applicant (Dunn to Mayah).

The report concludes that the "vibration levels of these townhomes will be exposed to will not result in structural damage, however they may cause slight annoyance due to 'feelable' vibration within the building....the level of annoyance experienced will depend highly upon the tolerance of each individual."

Subsequent to staff's review of the report, it was referred to the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) as well as the Washington Metro Area Transit Authority (WMATA) for additional comments and recommendations.

The following preliminary comments were generated by the DPIE in an e-mail dated April 9, 2015 (Duc to Mayah):

1. The provided report is just for vibration analysis; noise impact is not included on this report.
2. A transit system, commuter rail at this case, often causes significant noise at nearby residences. Federal Transit Administration, FTA, recommends noise analysis shall be performed if the structure is located within 1,600 feet from noise source. The proposed project is just approximately 120 feet from centerline of track so noise analysis shall be conducted. If noise impact exceeds the acceptable level, noise mitigation shall be proposed. For instance, sound barrier wall or acoustical insulation etc.



3. The report stated that ground-borne vibration will not result in structural damage. We agree that the vibration excited by train movement rarely cause any damages to the structure. However, the measured ground-borne velocity,  $V_{db}$ , exceeded the FTA impact level for residential building which means the future residence may experience vibration whenever the commuter train passes by (every 6 minutes). This issue needs to be addressed because the proposed structure is required to satisfy the building code not only in term of strength but also in term of serviceability which is vibration criteria in this case.
4. The report also stated that the conclusions are based on the measurement conducted in the ground only and such vibration impact may vary depending on the proposed structure. Our experience dealing with vibration analysis is that the heavier the structure is the lower the vibration response will be. Light weight material, wood, is often utilized to construct townhomes so most likely the vibration impact would be worse than what was described on this report.
5. If the proposed project is approved the owner shall have the structural engineer works closely with acoustical engineer/scientist (or firm) to come up with the best possible solution for the vibration issue.”

Written comments were not provided by WMATA; however, in a discussion regarding the proposed project, staff was informed that the townhouse lots adjacent to the tracks may be required to be constructed in accordance with WMATA’s “Adjacent Construction Project Manual” which “describes the WMATA review and approval process for projects proposed adjacent to WMATA property and/or facilities which may impact an existing WMATA facility, bus routes and/or bus stops.

Upon further discussion in a meeting with DPIE on April 14, 2015, staff from DPIE requested that a condition be added to the Planning Board’s approval requiring the applicant’s acoustical engineer to coordinate with DPIE to address adequate vibration mitigation measures prior to the issuance of the building permits for the affected lots and to review the plans in consideration of the WMATA manual.

**Conformance with the Countywide Green Infrastructure Plan**

The subject property is not located within the designated Green Infrastructure network.

12. **Stormwater Management**—The Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE) has approved a Stormwater Management Concept Plan, 33013-2014-00 (February 23, 2015), to ensure that development of this site does not result in on-site or downstream flooding. According to the letter, bioretention, microbioretention and 100-year attenuation is required. The concept plan shows one existing infiltration trench and one proposed infiltration trench, and includes Phase 2 only.

The 2010 *Approved Water Resources Functional Master Plan* contains policies and strategies related to the sustainability, protection, and preservation of drinking water, stormwater, and wastewater systems within the County, on a countywide level. These policies are not intended to be implemented on individual properties, or projects, and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans; County ordinances for stormwater management, 100-year floodplain, and woodland conservation; and programs implemented by the Department of Permitting, Inspections and Enforcement (DPIE), the Prince George's County Health Department, the Prince George's County Department of the Environment, the Prince George's Soil Conservation District, the Maryland-National Capital Park and Planning Commission (M-NCPPC) Planning Department, and the Washington Suburban Sanitary Commission (WSSC) are also deemed to be consistent with this master plan.

13. **The Department of Parks and Recreation (DPR)**—The 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone (TDDP)* includes the following goals for DPR:

- To provide parks, recreation facilities and programs to respond to the needs of residents and employees of the transit district.
- To develop facilities that are functional, safe and sensitive to the surrounding environment.
- To protect and conserve public open space and natural resources.
- To utilize alternative methods of park acquisition and facility development such as donation and mandatory dedication.

The mandatory development requirement related to parks and recreation states:

**P34 At the time of Preliminary Plat of Subdivision or Conceptual or Detailed Site Plan, the Department of Parks and Recreation (DPR) will review the site plan related to the development's impact on existing public parkland and recreation facilities and the need for additional parkland and recreational facilities. Any residential development shall meet the mandatory dedication requirements of the County Subdivision Ordinance (Subtitle 24).**

The subject property is not adjacent to any existing M-NCPPC-owned property. The surrounding parks and recreation facilities include:

- Heurich Community Park—approximately one quarter of a mile to the west on the south side of East-West Highway (MD 410).

- Northwest Branch Stream Valley Park—approximately one quarter of a mile to the northwest.
- Prince George's Plaza Community Center—approximately three quarters of a mile the northeast.

Based on the planned development, the total new development will generate a projected population of approximately 370 new residents to the area for Phases 2 and 3. As per Section 24-134(a)(1) of the Prince George's County Subdivision Regulations, there is a requirement for residential subdivisions to dedicate 15 percent of the land to M-NCPPC for public parks when the density exceeds 12 dwelling units per acre. The proposed density of this development is 15.7 dwellings per acre, thus the requirement for Mandatory Dedication would equate to 1.2 acres of land for the 8.03 acres included in this subdivision.

As noted earlier, the proposed development is in close proximity to The Prince George's Plaza Community Center, which is the oldest M-NCPPC owned and operated community center in our system. The Community Center is need of expansion given the projected growth of population in the Prince George's Plaza, Transit District Overlay Zone area. The Community Center is located at the eastern edge of the TDOZ in Subarea 2. DPR has recently acquired additional property for the eventual reconstruction and expansion of the Community Center. Therefore, in accordance with Sections 24-134 and 24-135 of the Subdivision Regulations, payment of a fee-in-lieu of dedication for the proposed residential development is recommended. It is acknowledged, however, that in discussions with DPR the applicant has indicated the desire to provide on-site private recreational facilities for the proposed development, as well as a proffered preliminary payment of \$50,000 to the M-NCPPC. In light of these discussions, the fee-in-lieu payment (to be provided in conjunction with the approval of the final plat) shall be offset by the proffered preliminary payment of \$50,000 and will be reduced (by percentage) by the private recreational facilities provided by the applicant (at the time of DSP). The value and siting of the private on-site recreational facilities will be determined at the time of DSP. Because no private on-site recreational facilities are being required for adequacy of public facilities, no bonding or recreational facilities agreement is required. The applicant may provide proof of the proffered preliminary payment to staff at the time of final plat, at which time the fee-in-lieu of mandatory dedication will be required.

The payment of fee-in-lieu, with consideration for the proffered preliminary payment and percentage of private on-site recreational facilities provided by the applicant at the time of DSP will meet the requirement for Mandatory Dedication as required by the Subdivision Regulations.

14. **Trails**—This PPS has been reviewed for conformance with Sections 24-123 and 24-124.01 of the Subdivision Regulations, the 2009 *Approved Countywide Master Plan of Transportation (MPOT)*, and the 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone (TDDP)* in order to implement planned trails, bikeways, and pedestrian improvements.

**Conformance to Section 24-124.01 (Adequate Public Pedestrian and Bikeway Facilities)**

The subject property is located within a designated center in *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035). This PPS is therefore subject to the adequate public facilities review procedures that are described in Section 24-124.01 of the Subdivision Regulations, which applies to any development project requiring the subdivision or re-subdivision of land within centers and corridors. The Prince George's County Planning Board shall require the developer/property owner to construct adequate pedestrian and bikeway facilities (to the extent such facilities do not already exist) throughout the subdivision and within one-half mile walking or biking distance of the subdivision if the Planning Board finds that there is a demonstrated nexus to require the applicant to connect a pedestrian or bikeway facility to a nearby destination, including a public school, park, shopping center, or line of transit within available public rights-of-way.

Section 24-124.01 includes the following guidance regarding pedestrian and bikeway improvements:

- (a) **Statement of Legislative Intent.** This Section establishes general criteria by which to ensure the adequacy of public pedestrian and bikeway facilities in County Centers and Corridors as designated by the General Plan (or as designated, defined, or amended by a subsequent master plan or sector plan). It also sets forth the requirements for those who establish subdivisions within Centers and Corridors to construct on-site and off-site pedestrian and bikeway facilities and other public streetscape improvements as part of any development project. The Approved 2002 General Plan states that the County should provide for a multimodal pedestrian-friendly transportation system at Centers and Corridors that is integrated with the desired development pattern. Accomplishing this requires the incorporation, to the maximum extent possible, of appropriate pedestrian, bicycle and transit-oriented design (TOD) and transit-supporting design (TSD) features in all new development within Centers and Corridors. Such features include integrated sidewalk, trail, and bikeway networks to divert as many trips as possible from automobile travel and increase the multimodal accessibility and attractiveness of trips to transit stops, schools, parks, libraries, stores, services and other destinations for all users. Pedestrian and bikeway facilities should be designed to increase safety, reduce travel time and offer the most direct routes to destinations for persons of all abilities. These concepts are further articulated in the "complete streets" principles and policies set forth in the 2009 Approved Countywide Master Plan of Transportation.
- (b) Except for applications for development projects proposing five (5) or fewer units or otherwise proposing development of 5,000 or fewer square feet of gross floor area, before any preliminary plan may be approved for land lying, in whole or part, within County Centers and Corridors, the Planning Board shall find that there will be adequate public pedestrian and bikeway facilities to serve the proposed subdivision and the surrounding area.

- (1) **The finding of adequate public pedestrian facilities shall, at a minimum, include the following criteria:**

- (A) **The degree to which the sidewalks, streetlights, street trees, street furniture, and other streetscape features recommended in the Countywide Master Plan of Transportation and applicable area master plans or sector plans have been constructed or implemented in the area.**

The applicant's Bicycle and Pedestrian Impact Statement (BPIS), and associated mapping, shows and describes the degree to which the sidewalks, streetlights, street trees, street furniture, and other streetscape features recommended in the Countywide Master Plan of Transportation and applicable area master plans or sector plans, have been constructed or implemented in the area.

The applicant's BPIS informs us that the area contains an extensive existing sidewalk network, pedestrian activated road crossings, benches, trash receptacles, landscaping, and other pedestrian amenities that are recommended in the area master plan and the TDDP. The Planning Board agrees with this assertion and notes that the most significant needs are located along the along East-West Highway (MD 410).

- (B) **The presence of elements that make it safer, easier, and more inviting for pedestrians to traverse the area (e.g., adequate street lighting, sufficiently wide sidewalks on both sides of the street buffered by planting strips, marked crosswalks, advance stop lines and yield markings, "bulb-out" curb extensions, crossing signals, pedestrian refuge medians, street trees, benches, sheltered commuter bus stops, trash receptacles, and signage).**

The BPIS describes the presence of existing elements such as sidewalks and pedestrian road crossings. The area contains street lights and is well lit (except for the applicant's frontage along East-West Highway (MD 410)), and other area roads have existing adequate street lighting, sufficiently wide sidewalks on both sides of the streets that are buffered by planting strips, marked crosswalks with pedestrian activated signals (except for Editor's park Drive at East-West Highway), advance stop lines, and yield markings. There are "bulb-out" curb extensions on Belcrest Road, crossing signals, pedestrian refuge medians, street trees, benches, sheltered commuter bus stops, trash receptacles, and signage throughout the area.

(2) **The finding of adequate public bikeway facilities shall, at a minimum, include the following criteria:**

- (A) **The degree to which the bike lanes, bikeways, and trails recommended in the Countywide Master Plan of Transportation and applicable area master plans or sector plans have been constructed or implemented in the area;**

The MPOT recommends that East-West Highway (MD 410) contain bike lanes, and that area roads contain bikeways. Bikeways have been implemented on all of the major roads in the area. Bike lanes exist on Belcrest Road and Toledo Terrace. East-West Highway (MD 410) is signed by Maryland State Highway Administration (SHA) for bicycle use.

- (B) **the presence of specially marked and striped bike lanes or paved shoulders in which bikers can safely travel without unnecessarily conflicting with pedestrians or motorized vehicles;**

All of the bike lanes in the area are striped according to the American Association of State Highway and Transportation (AASHTO) standards, where feasible to reduce conflicts with pedestrians or motorized vehicles.

- (C) **the degree to which protected bicycle lanes, on-street vehicle parking, medians, or other physical buffers exist to make it safer or more inviting for bicyclists to traverse the area; and**

There are no protected bicycle lanes in this area. On-street vehicle parking is present within the one-half mile vicinity of the subdivision. On-street parking is proposed by the applicant for the new road that will serve the subdivision. Bicyclists will be able to share this road with motorists. No additional markings are requested because this will be a low volume and low speed roadway, which are generally not recommended for bicycle markings in guidance provided by AASHTO.

- (D) **the availability of safe, accessible, and adequate bicycle parking at transit stops, commercial areas, employment centers, and other places where vehicle parking, visitors, and/or patrons are normally anticipated.**

The subject property is close to many area destinations, including employment centers, a major shopping center, and a Metrorail station. Ample bicycle parking is available at these locations.

- (c) **As part of any development project requiring the subdivision or re-subdivision of land within Centers and Corridors, the Planning Board shall require the developer/property owner to construct adequate pedestrian and bikeway facilities (to the extent such facilities do not already exist) throughout the subdivision and within one-half mile walking or biking distance of the subdivision if the Board finds that there is a demonstrated nexus to require the applicant to connect a pedestrian or bikeway facility to a nearby destination, including a public school, park, shopping center, or line of transit within available public rights of way. The cost of the additional off-site pedestrian or bikeway facilities shall not exceed thirty-five cents (\$0.35) per gross square foot of proposed retail or commercial development proposed in the application and Three Hundred Dollars (\$300.00) per unit of residential development proposed in the application, indexed for inflation.**
- (d) **Examples of adequate pedestrian and bikeway facilities that a developer/property owner may be required to construct shall include, but not be limited to (in descending order of preference):**
- (1) **installing or improving sidewalks, including curbs and gutters, and increasing safe pedestrian crossing opportunities at all intersections;**
  - (2) **installing or improving streetlights;**
  - (3) **building multi-use trails, bike paths, and/or pedestrian pathways and crossings;**
  - (4) **providing sidewalks or designated walkways through large expanses of surface parking;**
  - (5) **installing street furniture (benches, trash receptacles, bicycle racks, bus shelters, etc.); and**
  - (6) **installing street trees.**

The off-site improvements proposed by the applicant will be limited to the cost cap for off-site improvements as required by Section 24-124.01 of the Subdivision Regulations. The previously-signed scoping agreement, based on the applicant's original application for 10,000 square feet of retail development and 452 residential units, was calculated to total to \$139,000. This figure, however, includes 352 multifamily residential units approved under DSP-14010, which is not part of this application and was also based upon an older development proposal. The cost cap associated with the 126 dwelling units proposed with this PPS is \$37,800 (40 two-family and 86 townhouses). The applicant's current proposal is for the construction of \$28,560 of off-site improvements, as described in their BPIS, to meet area adequacy needs. Although this amount is lower than the cost cap, the proposed improvements are sufficient to meet the adequacy requirements of Section 24-124.01.

The following off-site improvements are proposed in the BPIS:

- (1) Upgrade ADA curb ramps and the existing crosswalk and install a pedestrian refuge area in the middle at the intersection of Toledo Terrace and East-West Highway. Also install crossing signals that complete and match the existing signals at that intersection.
- (2) Install and upgrade ADA curb ramps and a crosswalk at the intersection of Editors Park Drive and East-West Highway. Synchronize crossing signals and add necessary directional signaling.
- (3) Provide Shared-lane bicycle markings (Sharrows) along Editors Park Drive in both directions to and from the Junior High School. This would provide the bicyclists with a safer environment by making the car drivers aware that the road is shared with bicycles. It would also keep them out of the door zone of parked cars.

The BPIS contains improvements that will be associated with the development as required by Section 24-124.01. These improvements must be approved as conditioned by the local transportation authority prior to the issuance of building permits. The proposed improvements will demonstrate adequacy for public pedestrian and bicycle facilities within one-half mile of the subdivision.

15. **Transportation**—This PPS is for a phased mixed-residential development. The proposed development will consist of 86 attached townhouse units (Phase 2) and 40 two-family residential units (Phase 3). It should be noted that an adjacent parcel which is part of this overall development (but not part of this subdivision) has detailed site plan approval for 352 residential multifamily units along with a 416-space parking structure (Phase 1).

The proposed mix of moderate- and high-density residential uses within a quarter-mile of a metrorail station would help to reduce auto dependency and roadway congestion if the submitted plan includes a dedicated direct high-quality pedestrian walkway with active streetscape that would extend from East-West Highway (MD 410) to the proposed internal east-west roadway (depicted on submitted plan as “Public Road A”), between the proposed boundary of the multifamily and proposed Parcel 2.

The approved Prince George’s Plaza Transit District Development Plan (TDDP) guides the use and development of all properties within its boundaries. The findings and recommendations outlined below are based upon staff evaluation of the submitted plan with regard to conformance to transportation and parking mandatory development requirements and guidelines outlined in the TDDP.

One of the purposes of this TDDP is to ensure a balanced transportation and transit facilities



network. Therefore, and for the purpose of assessing transportation needs, staff performed an analysis of all transportation facilities serving the transit district. This analysis indicated that the primary constraint to development within the transit district is vehicular congestion. To this end, the plan identified and required ways to reduce the number of vehicle trips to and from the transit district, particularly the congestion caused by the single-occupant vehicle trips, and to promote an increase in trips taken on the available transit service. The TDDP addresses transportation adequacy by recommending a number of policies and the establishment of maximum surface parking ratios and maximum surface parking caps, while providing full exemption to the amount of structured parking in any of the related TDDP's mandatory requirements associated with the parking and transportation adequacy.

Among the most consequential of these policies are: (1) the establishment of a District-wide cap on the number of additional surface parking spaces (3,000 Preferred, plus 1,000 Premium) that can be constructed in the Transit District, (2) the implementation of developer contributions based on total number of Preferred and Premium surface parking spaces proposed for any planned development, to be applied toward the funding of the recommended transportation improvements, and (3) the establishment of the authorized mandatory Transportation Demand Management District (TDMD), when deemed appropriate by the District Council in accordance with the requirements of Subtitle 20A of the Prince George's County Code.

**Status of Surface Parking in the Transit District**

Pursuant to the Planning Board's previous approvals of detailed site plans in the Transit District, the unallocated and still available Preferred and Premium surface parking spaces in the Transit District for each class of land use are:

	Residential		Office/Resch		Retail		Total	
	PREF.	PREM	PREF.	PREM	PREF.	PREM	PREF.	PREM
TDDP Caps	920	310	1,170	390	910	300	3,000	1,000
Subarea 1	(178)						(178)	
Subarea 4					(121)		(121)	
Subarea 6					(72)		(72)	
Subarea 7	<b>Subarea for this application; nothing allocated to date</b>						0	
Subarea 9					(321)		(321)	
Subarea 10A			(82)		(191)	(15)	(273)	(15)
Unallocated	742	310	1,080	390	205	285	2,035	985

**Note:** The allocation or availability of preferred and premium surface parking spaces does not change in the transit district by any subsequent amendments to an approved detailed site plan, provided the requested amendment is not proposing an increase in the number of approved or exempt surface parking in each subarea. The figures shown above do not include the number of structure parking spaces that are built, or are planned to be constructed in each subarea, as they are deemed exempt pursuant to the requirements of MDR P6.

The TDDP identifies the subject property as Subarea 7 of the TDOZ. There are 15 subareas in the TDOZ, two of which are designated as open-space and will remain undeveloped. The applicant proposes to construct a mix of residential development supported by a parking structure with 416 garage spaces and the provision of surface parking spaces well below the 382 exempt numbers of surface spaces that existed in the subarea at the time of TDDP approval. It is important to note that approval of the proposed development plan would not result in any changes to the unallocated Preferred and Premium surface parking spaces stated in the table above.

Vehicular access to the proposed development will be provided from the proposed "Public Road A" (which is an internal east-west roadway), Editors Park Drive (an existing dedicated roadway with 60 feet of total right-of-way), and Toledo Terrace extended (which is proposed by this plan to be changed from a private access roadway to a fully dedicated roadway). The plan correctly shows no direct access to East-West Highway (MD 410) and a variation from Section 24-121 was not requested. The access and circulation are acceptable as shown. The final plat shall reflect denial of access to East-West Highway (MD 410).

In accordance with the above findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Subdivision Regulations with conditions. In connection with this finding, compliance with the parking standards will be fully analyzed at the time of detailed site plan review.

16. **Variations**—The applicant has filed variation requests from Sections 24-121(a)(4), 24-128(b)(12), and 24-122(a) of the Subdivision Regulations, which are further discussed in this section.

**Variation from Section 24-121(a)(4)**

Parcel 2 (40 two-family) meets the minimum 150-foot lot depth from East-West Highway (MD 210), an arterial facility. The PPS proposes a minimum lot depth of less than 300 feet for lots that are adjacent to the WMATA property to the south of the site and the underground WMATA easement located at the southeastern portion of the property. Townhouse Lots 7-38, 45-66, and 73-82 are subject to this variation; totaling 64 lots. Section 24-121(a)(4) states:

- (4) **Residential lots adjacent to existing or planned roadways of arterial classification shall be platted with a minimum depth of one hundred and fifty (150) feet. Residential lots adjacent to an existing or planned roadway of freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate.**

Section 24-113(a) sets forth the required findings for approval of variation requests as follows:

- (a) **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:**

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 24-121 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;**

As previously discussed in the Environmental Planning Finding, no ground-level noise impacts affect the townhouse lots adjacent to the WMATA right-of-way. Therefore, the review of this variation will focus on the vibration impacts of the site's adjacency to the metro line. As previously stated, the Vibration Study, received on February 10, 2015, states that "vibration levels of these townhomes will be exposed to will not result in structural damage, however they may cause slight annoyance due to 'feelable' vibration within the building...the level of annoyance experienced will depend highly upon the tolerance of each individual." Because no structural damage is expected as a result of proximity to the metro line, it is determined that the proposed variation is in conformance with this requirement. Conditions pertaining to the structural design of the townhomes at the time of building permit are recommended.

- (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;**

One-hundred percent of the southern boundary of the site abuts either the WMATA property to the south or the underground WMATA easement which is located at the southeastern portion of the site. This condition is substantially unique to the property and not generally applicable to other properties.

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

Conditions of approval are recommended which require the structural plans for the proposed townhouses be received by DPIE in coordination with WMATA prior to approval of building permits. Therefore, approval of this variation will not constitute a violation of any other applicable law, ordinance, or regulation.

- (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 strict letter of these regulations is carried out;**

Adherence to the requirements of Section 24-121(a)(4), in this case, would result in the loss of 64 townhouse lots, which is 74 percent of the lots proposed; due to the substantial length of the property which abuts the WMATA property to the south and the property upon which the underground easement for the property is located. This would result in a particular hardship to the applicant.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones. Therefore, this finding does not apply.

Based on the preceding findings, the requested variation to Section 24-121(a)(4) to create 64 lots that do not meet the 300-foot lot depth requirement is **APPROVED**.

**Variations from Section 24-128(b)(12) and 24-122(a)**

The applicant has filed a variation request from Section 24-128(b)(12) and Section 24-122(a) of the Subdivision Regulations for public utility easements (PUEs) along public and private streets, which are required to be ten feet wide along either side of the private rights-of-way and both sides of public rights-of-way. In light of the nature of these regulations and the fact that the findings and conditions would be the same for each section, these variations were analyzed together. An email has been received from the applicant (Bickel to Mayah) stating that the original variation intended to include Section 24-122(a). This email supplements the original request. The PPS proposes an alternative PUE to serve the proposed development, which must be approved by all affected utility companies at the time of DSP as a condition of this approval if granted by the Planning Board.

Section 24-128(b)(12) states the following:

- (12) **Private roads provided for by this Subsection shall have a public utility easement contiguous to the right-of-way. Said easement shall be at least ten (10) feet in width, and shall be adjacent to either right-of-way line.**

Section 24-122(a) states the following:

- (a) **When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.**

Section 24-113(a) sets forth the required findings for approval of variation requests as follows:

- (a) **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:**

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 24-128(b)(12) and 24-122(a) 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;**

The location of utilities on the site must be reviewed and approved by the applicable utility providers to determine their most appropriate location in relation to other easements and the overall development of site, thereby ensuring public safety, health, and welfare.

- (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;**

In the applicant's variation request, the applicant states that several existing easements are located on the site. The easement holders are WSSC, PEPCO, WMATA, and other private owners. These easements support water, sewer, storm drains, electric, and Metro rail. The applicant also states that "During the late 1980s and early 1990s the Metro Green Line was constructed under the southeast

corner of the property. Additional easements were added to support the Metro train.” It is agreed that these conditions create an environment that is unique to the property and generally not applicable to other properties.

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

As the location of the alternative PUE would require approval of the applicable public utility providers, it is determined that no other applicable law, ordinance, or regulation would be violated by this variation.

- (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 strict letter of these regulations is carried out;**

As previously stated, existing easements are located on the site, which are owned by WSSC, PEPCO, WMATA, and other private owners. Additionally, 100% of the southern boundary of the site abuts either the WMATA property to the south or the underground WMATA easement which is located at the southeastern portion of the site. The existing infrastructure (on-site and off-site) severely limits the applicant’s ability to provide standard PUE locations and sizes. If the strict letter of these regulations is carried out, it would result in a particular hardship to the owner.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George’s County Code.**

The site is not located in any of the listed zones. Therefore, this finding does not apply.

Based on the preceding findings, the requested variation to Sections 24-128(b)(12) and 24-122(a) to provide alternative public utility easements (to be approved by the affected utility companies at the time of DSP) is **APPROVED**.

17. **Schools**—The subdivision has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-2003), and the following conclusions have been determined:

**Impact on Affected Public School Clusters  
 Multifamily Units**

Affected School Clusters #	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
Dwelling Units	40	40	40
Pupil Yield Factor	0.119	0.054	0.074
Subdivision Enrollment	5	2	3
Actual Enrollment	20,414	4,349	8,318
Total Enrollment	20,419	4,351	8,321
State Rated Capacity	17,570	4,334	8,125
Percent Capacity	116%	100%	102%

**Single-family Attached Units**

Affected School Clusters #	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
Dwelling Units	86	86	86
Pupil Yield Factor	0.145	0.076	0.108
Subdivision Enrollment	12	7	9
Actual Enrollment	20,414	4,349	8,318
Total Enrollment	20,426	4,356	8,327
State Rated Capacity	17,570	4,334	8,125
Percent Capacity	116%	101%	102%

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 Interstate 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 (WMATA); or \$12,000 per dwelling for all other buildings. CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$9,035 and \$15,489 to be paid at the time of issuance of each building permit.

In 2013, Maryland House Bill 1433 reduced the school facilities surcharge by 50 percent for multifamily housing constructed within an approved transit district overlay zone; or where there is no approved transit district overlay zone within a one-quarter mile of a Metro station; or within the Bowie State MARC Station Community Center Designation Area, as defined in the 2010 *Approved Bowie State MARC Station Sector Plan and Sectional Map Amendment*. The bill also established an exemption for studio or efficiency apartments that are located within the county urban centers and corridors as defined in §27A-106 of the County Code; within an Approved Transit District Overlay Zone; or where there is no approved transit district overlay zone then within one-quarter mile of a Metro station. This act is in effect from October 1, 2013 through September 30, 2018.

The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

18. **Fire and Rescue**—The PPS has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(e)(1)(E) of the Subdivision Regulations. Section 24-122.01(e)(1)(E) states that “A statement by the Fire Chief that the response time for the first due station in the vicinity of the property proposed for subdivision is a maximum of seven (7) minutes travel time. The Fire Chief shall submit monthly reports chronicling actual response times for call for service during the preceding month.”

The proposed project is served by Hyattsville Fire/EMS, Company 1. This first due response station, located at 6200 Belcrest Road, is within the maximum seven-minute travel time.

**Capital Improvement Program (CIP)**

The Capital Improvement Program for Fiscal Years 2014-2019 provides funding to replace the existing station.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the “Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.”

19. **Police Facilities**—The subject property is located in Police District I, Hyattsville. The response time standard is ten minutes for emergency calls 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 December 23, 2014.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 12/23/2014	12/2013-11/2014	6 minutes	12 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and the 25 minutes for nonemergency calls were met on December 29, 2014.

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) regarding sworn police personnel staffing levels.

20. **Water and Sewer Categories**—Section 24-122.01(b)(1) states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or



final plat approval.” The 2008 *Water and Sewer Plan* placed part of this property in water and sewer Category 3, Community System, and will therefore be served by public water and sewer service.

21. **Health Department**—The PPS was referred to the Health Department for review. A letter was received on February 12, 2015 (Ross to Mayah), stating that the Health Department has no comments.
22. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when PUEs are required by a public utility company, the subdivider should include the following statement on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The PPS does not depict a PUE on the subject site which meets the requirements of Section 24-128(b)(12) and Section 24-122(a) of the Subdivision Regulations. As discussed in the Variation section of this report, the applicant intends to implement an alternative PUE layout on the site, which is approved. Therefore, prior to certification of the DSP for development of site, a color-coded utility plan for the alternative PUE shall be submitted for review. The DSP shall demonstrate all of the proposed utility easements in conformance with the utility plan. The applicant shall provide documentation of concurrence of the alternative layout from the applicable utility providers at the time of DSP. At the time of final plat, the PUE shall be reflected on the final plat and granted in conformance with the DSP. If the applicant is unable to obtain consent from all of the affected utilities, a standard ten-foot-wide PUE shall be required.

23. **Historic**—There are no Prince George’s County Historic Sites, Historic Resources or documented properties in the vicinity of the proposed construction. This project will not impact any Prince George’s County Historic Sites, Historic Resources, or Archeological resources. There are no known archeological sites or resources that would be impacted by the proposed project. A Phase I archeological survey is not recommended in any of the proposed construction areas. There are no identified archeological resources in any of the proposed areas of construction.
24. **Use Conversion**—This PPS was analyzed based on the proposal for residential development. The analysis includes access, noise, mandatory dedication, lot depth and views of the property, specifically relating to the residential land use proposed with this application. While the subject application is not proposing any nonresidential development, if such a land use were proposed, a new subdivision will be required.
25. **Development Cap**—Section 24-101 of the Subdivision Regulations defines public facilities as “Facilities and services such as, but not limited to, water, sewerage, transportation (i.e., streets, transit), schools, libraries, recreation, police protection, fire, and emergency service.” In addition, Section 24-124.01 established adequate public pedestrian and bikeway facilities. This PPS was analyzed for adequate public facilities for 126 attached residential dwelling units. Therefore, any

proposal of residential development greater than that identified herein shall require a new subdivision and a new determination of adequate public facilities. This development cap is not associated with transportation adequacy as determined by the 1998 Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone (TDDP), or as amended.

26. At the hearing on May 14, 2015, the Planning Board approved staff's additional Finding 25 and associated Condition 22 for conditioning of a development cap for the proposed development. The Planning Board also approved revised Conditions 1(g), 5, 6, 6(e), 10, 12, 13, 20, and 21, as well as revised Finding 22 per Applicant's Exhibit No. 1. The applicant's revised conditions were for the purposes of making technical corrections and clarifications pertaining to the mandatory dedication of parkland requirement, alternative compliance requirements, and vibration impacts from the adjacent metro line. These revised conditions have been incorporated into the conditions of approval for the PPS.

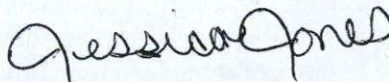
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

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 Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, and Hewlett voting in favor of the motion, and with Commissioners Bailey and Geraldo absent at its regular meeting held on Thursday, May 14, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of June 2015.


Patricia Colihan Barney  
Executive Director



By Jessica Jones  
Planning Board Administrator

PCB:JJ:WM:rpg

APPROVED AS TO LEGAL SUFFICIENCY

  
M-NCPPC Legal Department

Date 5/28/15