

R E S O L U T I O N

WHEREAS, Jackson-Shaw/Brickyard Limited Partnership, LLLP is the owner of a 12.71-acre parcel of land known as Parcels C, D, F, G, and I, said property being in the 10th Election District of Prince George's County, Maryland, and being zoned Heavy Industrial (I-2); and

WHEREAS, on April 28, 2017, CalAtlantic Homes filed an application for approval of a Preliminary Plan of Subdivision for 188 lots and 15 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-16035 for Brickyard MARC Planned Community 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 June 29, 2017, 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 June 29, 2017, 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 Type 1 Tree Conservation Plan TCP1-011-05-02, and further APPROVED Preliminary Plan of Subdivision 4-16035, including Variations from Sections 24-121(a)(4) and 24-128(b)(16) for 188 lots and 15 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the applicant shall revise the PPS to:
 - a. Reflect the location of the proposed public utility easements (PUEs) and, if applicable, note that a variation from Section 24-128(b)(12) of the Subdivision Regulations is required prior to approval of a final plat for any areas that do not provide a 10-foot-wide PUE along one side of the private streets.
 - b. Re-number the lots to provide for consecutive numbering and revise the plan notes to reflect the corrected lot and parcel designations.
 - c. Revise the plan notes to reflect 188 lots and dwelling units proposed.

- d. Revise Note 27 to indicate the property is not within the Military Installation Overlay (M-I-O) Zone and remove the reference to the Andrews Interim Land Use Controls.
 - e. Delete Note 28.
 - f. Correct Note 14 to indicate the revised (03) stormwater management concept approval number and approval date.
 - g. Show all existing conditions on Parcel III.
 - h. Label all parcels to be conveyed to the homeowners association, except the parcels containing the existing cell tower and billboard, if they are approved to remain on the site with approval of the detailed site plan.
 - i. Provide a clear delineation and dimensioning of all lot lines.
 - j. Reflect adequate access to and the proposed ownership of parcels containing the cell tower and billboard, if approved, to remain with the detailed site plan.
2. Total development within the approved preliminary plan of subdivision (PPS) shall be limited to uses which generate no more than 121 AM peak hour trips and 141 PM peak hour trips. Any development generating an impact greater than that identified herein shall require a new determination of the adequacy of transportation facilities and a new PPS.
 3. A substantial revision to the uses on the subject property that affects Subtitle 24 adequacy findings shall require the approval of a new preliminary plan of subdivision prior to approval any building permits.
 4. Development of this site shall be in conformance with an approved Stormwater Management Concept Plan (5249-2005-03) and any subsequent revisions.
 5. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised as follows:
 - a. Revise Sheet 1 of the TCP1 to identify and add the limits of Preliminary Plan of Subdivision 4-16035 to the plan.
 - b. Revise the TCP1 to add the General Information Table.
 6. Prior to issuance of any permits which impact wetlands, wetland buffers, streams, or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

7. Prior to issuance of the grading permit, a copy of the approved final stormwater management concept plan shall be submitted to the Environmental Planning Section to verify conformance with the certified Type 2 tree conservation plan and detailed site plan. Any inconsistencies must be addressed prior to issuance of the first grading permit.
8. 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, as designated below or as modified by the Prince George's County Department of Public Works and Transportation (DPW&T), the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), and the Prince George's County Department of Parks and Recreation (DPR) 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. Replace the existing nonstandard sidewalk along the south side of Muirkirk Road, between Old Baltimore Pike and Conway Road, with an ADA-accessible (Americans with Disabilities Act) sidewalk that meets current DPW&T specifications and standards.
 - b. At the time of detailed site plan (DSP), provide an exhibit that illustrates the location and limits of all off-site improvements recommended by staff for the review of the operating agencies. This exhibit shall show the location of the ADA ramps, crosswalk, and sidewalk installation, and provide any necessary details and specification for the improvements, consistent with Section 24-124.01(f). If it is determined at the time of DSP that alternative off-site improvements are appropriate, the applicant shall demonstrate that the substitute improvements shall comply with the facility types contained in sub-section(d), be within one-half mile walking or bicycling distance of the subject site, within the public right-of-way, and within the limits of the cost cap contained in sub-section(c). The Planning Board shall find that the substitute off-site improvements are consistent with the bicycle and pedestrian impact statement adequacy finding made at the time of preliminary plan of subdivision.
9. In conformance with the 2009 *Approved Countywide Master Plan of Transportation* and the 2010 *Approved Master Plan and Sectional Map Amendment for Subregion 1 (Planning Areas 60, 61, 62, and 64)*, the applicant and the applicant's heirs, successors, and/or assignees shall provide a minimum six-foot-wide sidewalk along the subject site's entire frontage of Brickyard Boulevard, unless modified by the Prince George's County Department of Public Works and Transportation.
10. Prior to issuance of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.

11. Prior to approval of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association has been established. The draft covenants shall be submitted to the Subdivision Review Section to ensure that the rights of the Maryland-National Capital Park and Planning Commission are included. The liber and folio of the declaration of covenants shall be noted on the final plat prior to recordation.
12. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association (HOA) land as identified on the approved preliminary plan of subdivision. Land to be conveyed shall be subject to the following:
 - a. A copy of the deed for the property to be conveyed shall be submitted to the Subdivision Review Section of the Development Review Division (DRD), Upper Marlboro.
 - b. 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.
 - c. The conveyed land shall not suffer the disposition of construction materials, soil filling, other than the placement of fill material associated with permitted grading operations that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
 - d. Any disturbance of land to be conveyed to a 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 storm drain outfalls.
 - e. Storm drain 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 the Development Review Division (DRD) in accordance with the approved detailed site plan.
 - f. 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.
13. The applicant and the applicant's heirs, successors, and/or assignees shall provide private on-site recreational facilities in accordance with the standards outlines in the Park and Recreational Facilities Guidelines and allocate appropriate and developable areas for the private on-site recreational facilities within the common open space land. The recreational facilities shall be reviewed by the Urban Design Section of the Development Review Division of the Prince George's County Planning Department for adequacy and proposed siting with the submittal of the detailed site plan.

14. The applicant and the applicant's heirs, successors and/or assignees shall submit for approval three original recreational facilities agreements (RFA) to the Development Review Division (DRD) for construction of recreational facilities on homeowners' land prior to the submission of final plats for the MARC planned community. Upon approval by DRD, the RFA shall be recorded among the County Land Records and the liber and folio of the RFA shall be noted on the final plat prior to recordation.
15. The applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on homeowners' land, prior to issuance of building permits for the portion of the MARC planned community included in this application.
16. Prior to certification of Detailed Site Plan DSP-07034-09, the applicant and the applicant's heirs, successors, and/or assignees shall revise the DSP to provide for the exterior mitigation of the rear of Lots 431–441, or at the time of final plat, the applicant shall provide a plat note indicating that rear outdoor areas of Lots 431–441 may be negatively impacted by noise from the CSX tracks.
17. Prior to approval of a final plat, any access easements required and shown on the approved preliminary plan of subdivision to the parcels containing the cell tower and billboard shall be ensured through easement or covenant documents, to be reviewed and approved by the Maryland-National Capital Park and Planning Commission. The final plat shall note the liber and folio of the recorded easements or covenants prior to recordation.

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 in the northwest corner of the intersection of Muirkirk Road and Cedarhurst Drive and is currently known as Parcels C, D, F, G, and I, recorded among the Prince George's County Land Records on the plat titled The Brick Yard in Plat Book REP 233-65 and 85. The property is partially developed with an existing private street, Calico Rock Landing, and a stormwater management pond on Parcel I; a cell tower on Parcel D; and a billboard on Parcel C, which are proposed to remain. The overall area of the property is 12.71 acres and is located in the Heavy Industrial (I-2) Zone. The application is for 188 lots and 15 parcels for the construction of a townhouse development. A detailed site plan (DSP) is required for the development of this site in accordance with the requirements of the underlying zoning and proposed use as contained in Section 27-475.06.05 of the Prince George's County Zoning Ordinance (Council Bill CB-21-2006) for a MARC Planned Community. Detailed Site Plan DSP-07034-09 for the townhouse development has been filed, is currently under review, and scheduled for a Planning Board hearing on June 29, 2017, following this application.

The subject site has frontage along the CSX MARC train tracks and right-of-way to the west. Residential lots are required to be platted with a 300-foot lot depth when adjacent to an existing transit right-of-way, in accordance with Section 24-121(a)(4) of the Subdivision Regulations. This application includes approval of a variation for 97 of the townhouse lots, which do not meet the required 300-foot lot depth.

The lots in this application are to be accessed via a network of internal private streets and alleys. Section 24-128(b)(16) of the Subdivision Regulations requires that alleys only provide access to lots with frontage on a public street. This application includes approval of a variation for 129 of the townhouse lots, which are served by alleys and front on private streets or green areas.

3. **Setting**—The property is located on Tax Map 9, Grid E-4, in Planning Area 62 and is zoned I-2. Development surrounding this site includes townhouse development and a clubhouse to the north, also within the Brickyard community; the CSX MARC train tracks to the west; a parking lot serving the Muirkirk MARC Train Station to the south; and Brickyard Boulevard (private right-of-way) to the east.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

4. **Development Data Summary**—The following information relates to the subject PPS application and the approved development.

	EXISTING	APPROVED
Zone	I-2	I-2
Use(s)	MPC/Cell tower and billboard (to remain)	Single-Family Attached (188 Units)
Acreage	12.71	12.71
Lots	0	188
Outlots	0	0
Parcels	5	15
Dwelling Units:	0	188
Public Safety	No	No
Variance(s)	No	No
Variation(s)	No	Yes
		Section 24-121(a)(4) Section 24-128(b)(16)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on May 19, 2017. The variation to Section 24-121(a)(4) of the Subdivision Regulations was accepted on March 28, 2017, and heard at the SDRC meeting on April 7, 2017, as required by Section 24-113(b) of the Subdivision

Regulations. A second variation, to Section 24-128(b)(16) of the Subdivision Regulations, was accepted on May 26, 2017 and heard at the SDRC meeting on June 16, 2017.

5. **Previous Approvals**—The site was subject to a previously approved PPS 4-04120, approved by the Planning Board on July 7, 2005, for 38 lots and 4 parcels for 1,500,000 square feet of gross floor area for industrial development. The PPS (4-04120) included a larger land area (115.98 acres) of which the subject property was included. Detailed Site Plans DSP-05024 and DSP-05070 were approved by the Planning Board on October 27, 2005 and February 16, 2006, respectively, for the industrial development of The Brickyard in accordance with PPS 4-04120.

The Planning Board approved PPS 4-07053 on May 15, 2008, which resubdivided 68.4 acres of the original 115.98-acre site into 412 lots and 39 parcels for the residential development (including 29,787 square feet of flex space) in the southern portion of the Brickyard Marc Planned Community (MPC), in accordance with CB-21-2006. The subject site was included in PPS 4-07053. Detailed Site Plan DSP-07034 was approved by the Prince George's District Council on September 22, 2008 for the residential portion of the Brickyard development in accordance with PPS 4-07053, which included a multifamily building with flex/commercial space on Parcels C, D, F, and G, which are the subject of this application (4-16035).

To date, the northern portion of the overall Brickyard MPC (115.98 acres) is developed industrially in accordance with PPS 4-04120 and the southern portion has been partially developed residentially in accordance with 4-07053. This PPS replaces one 427-unit multifamily building (DSP-07034) with ground-floor commercial uses on Parcels C, D, F, and G with 188 townhouse lots, a reduction of 239 living units, and will supersede PPS 4-07053 for the development of this property.

6. **Community Planning**—The *Plan Prince George's 2035 Approved General Plan* (General Plan) locates the property in the Muirkirk MARC Neighborhood Center. "Neighborhood Centers are primarily residential areas that are lower in density with fewer transit options and offering neighborhood-serving retail and office use" (General Plan Growth Policy Map). This property is located within the General Plan Growth Boundary. The property is also within a designated Employment Area. The General Plan describes Employment Areas as areas commanding the highest concentrations of economic activity in four targeted industry clusters: healthcare and life sciences; business services; information, communication and electronics; and the Federal Government (page 106).

The subject property is within the 2010 *Approved Master Plan and Sectional Map Amendment for Subregion I (Planning Areas 60, 61, 62, and 64)* (Subregion 1 Master Plan and SMA) boundary. The site is located in the US 1/ Baltimore Avenue Corridor, Focus Area 3, that encourages medium- to high-density mixed-use development in the vicinity of a MARC station, with retail and office space on the ground floors and residential and office space above (See Map 7, page 30, Master Plan). The approved future land use for Parcels C, D, F, and G in the master plan is mixed-use commercial. Parcel I is designated for medium- to high-density residential use (see Map 13, page 160). The proposed townhouse use on Parcels C and D does not conform to the

plan's vision and encouraged land use. However, CB-21-2006 supersedes the master plan and states that an MPC is defined as a minimum of 10 acres included in a single PPS, any portion of which adjoins an existing MARC rail station site and which is planned to be developed with commercial, industrial, office, residential, retail, or similar uses. The MPC is permitted to have mixed-use development in the I-2 Zone. The proposed development must include three of the following uses: retail, office, research or industrial, and residential. This requirement is satisfied in the overall MPC (115.98 acres).

Since this site is adjacent to the Muirkirk MARC Station, pedestrian accessibility to maximize ridership is critical to the design and ultimate development of this site. The Council bill requires pedestrian accessibility to the MARC station from the MPC. Pedestrian connections from Parcel C to the MARC station parcel were considered and are further evaluated in the Trails finding.

7. **Stormwater Management**—An approved Stormwater Management Concept Plan (5249-2005-03) and approval letter were submitted with the subject application. The concept approval expires on May 24, 2020. The approved concept plan is consistent with the Type 1 tree conservation plan (TCP1), and with the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) requirements for on-site attenuation/quality control measures with no fee-in-lieu. Development must be in conformance with that approved plan or subsequent revisions to ensure that on-site or downstream flooding does not occur. No further information pertaining to stormwater management is required.
8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements of the Subregion 1 Master Plan and SMA; the Land Preservation and Recreation Program for Prince George's County; the 2013 Formula 2040: Functional Master Plan for Parks, Recreation and Open Space; and the Subdivision Regulations, as they pertain to public parks and recreation and facilities.

This application (Parcels C, D, F, G, and I) is part of a previously approved PPS 4-07053. The application includes the replacement of 427 multifamily dwelling units and flex space with 188 townhouse dwelling units in the same location.

With PPS 4-07053, private on-site recreational facilities in lieu of mandatory dedication for the larger Brickyard development (68.4 acres) were approved. The applicant has provided conceptual information for private on-site recreational facilities that will be constructed with the development and available to the residents, which include a network of green spaces with sidewalks and sitting areas that provide connectivity to the recreational amenities previously approved outside the area of this PPS. This application is only for a portion of the overall development. Consistency with the prior approval to provide private on-site recreational facilities is approved.

The private on-site recreational facilities meet the mandatory dedication requirements contained in Sections 24-134 and 24-135 of the Subdivision Regulations. The details for the on-site private recreational facilities to be provided will be further evaluated with the DSP.

9. **Trails**—This PPS application was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the area master plan in order to implement planned trails, bikeways, and pedestrian improvements. The Brickyard development is immediately adjacent to the Muirkirk MARC Station. Because the site is located in the US 1 Corridor and the Muirkirk MARC Center, it is subject to the requirements of Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines, Part 2” at the time of PPS.

There are no master plan trails issues included in either the MPOT or the area master plan that impact the subject property. Continuous sidewalks and designated bicycle lanes are recommended along Baltimore Avenue (US 1), but this road is separated from the subject site by the railroad tracks.

The Complete Streets element of the MPOT reinforces the need for these recommendations and includes the following policies regarding sidewalk construction and the accommodation of pedestrians.

POLICY 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.

POLICY 2: All road frontage improvements and road capital improvement projects within the developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

Prior approvals for the Brickyard development included an extensive network of sidewalk and trail facilities. As the subject site is a portion of a larger overall development, the facilities on-site will connect into the sidewalks and trails approved via the prior approvals. Preliminary Plan 4-07053 included conditions of approval for the following facilities:

4. **In conformance with the Adopted and Approved Subregion I Master Plan, the applicant, and the applicant’s heirs, successors, and/or assignees shall provide:**
- a. **The adopted and approved Subregion I master plan recommends that Muirkirk Road be designated as a Class III bikeway with appropriate signage. Because Muirkirk Road is a county right-of-way, the applicant, and the applicant’s heirs, successors, and/or assignees shall provide a financial contribution of \$210.00 to the DPW&T for the placement of this signage, or provide proof of prior payment. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit.**
 - b. **Provide an eight-foot-wide sidewalk along the subject site’s entire frontage of Muirkirk Road separated from the curb by a grass landscape strip, unless modified by DPW&T.**

- c. Provide a six-foot-wide sidewalk along the east side of Cedarhurst Drive separated from the curb by a grass/landscape strip, unless modified by DPW&T.**
- d. Provide minimum six-foot-wide sidewalks along both sides of the roads within Parcel B, and Parcel F, and along the north side of Parcel E, unless modified by DPW&T.**
- e. Provide a public walkway from the subject site to the adjacent MARC property, including the crosswalk details and pedestrian safety features indicated on the submitted DSP, unless modified by DPW&T.**
- f. Provide standard sidewalks along both sides of all internal roads (excluding alleys) unless modified by DPW&T.**

Detailed Site Plan DSP-07034 incorporated the same conditions of approval as copied below.

- 1. Prior to certificate approval of this Detailed Site Plan, the applicant shall**
 - e. Provide an eight-foot-wide sidewalk along the subject site's entire frontage of Muirkirk Road separated from the curb by a grass landscape strip, unless modified by Department of Public Works and Transportation (DPW&T).**
 - f. Provide a six-foot-wide sidewalk along the east side of the Cedarhurst Drive separated from the curb by a grass/landscape strip, unless modified by DPW&T.**
 - g. Provide minimum six-foot-wide sidewalks along both sides of the roads within Parcel B and Parcel F and along the south side (Building 2) of the road in Parcel E, unless modified by DPW&T.**
 - h. Provide the pedestrian connection from the subject site to the adjacent MARC property, including the crosswalk details and pedestrian safety features indicated on the submitted DSP, unless modified by Department of Public Works and Transportation.**
 - i. Provide standard sidewalks along both sides of all internal roads (excluding alleys) unless modified by DPW&T.**
- 6. Prior to issuance of the first building permit, the applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210.00 to the DPW&T for the placement of "Share the Road with a Bike" signage, or provide proof of prior payment.**

The majority of the conditions have been implemented as development of the Brickyard site has occurred. The necessary improvements along Cedarhurst Lane have been completed including the six-foot-wide sidewalk and designated bicycle lanes. Other roads have included standard sidewalks as part of road construction. Improvements along Muirkirk Road are beyond the scope of the current application, but have been addressed via previously approved conditions.

On-Site Bicycle and Pedestrian Improvements:

Sidewalks are shown on both sides of most internal roads and internal walkways between and along the townhouse units. For units that are rear-loaded, sidewalks are provided along the front of the townhouses within open space. The sidewalks provided on-site will complement the sidewalk network that has already been constructed within the larger Brickyard development. A more direct pedestrian connection linking the townhouses with the adjacent MARC platform was evaluated, but this connection is not feasible due to existing wetlands and stormwater management structures. A wide sidewalk is reflected along Brickyard Boulevard, consistent with prior approvals.

Review of the Bicycle and Pedestrian Impact Statement (BPIS) and Off-Site Improvements:

Due to the location of the subject site within a designated corridor, the application is subject to CB-2-2012, which includes a requirement for the provision of off-site bicycle and pedestrian improvements. Section 24-124.01(c) of the Subdivision Regulations include the following guidance regarding off-site improvements:

- (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.**

Council Bill CB-2-2012 also included specific guidance regarding the cost cap for the off-site improvements. The amount of the cost cap is determined pursuant to Section 24-124.01(c):

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.

Based on sub-section (c) and the 188 townhouse units approved, the cost cap for the site is \$56,400. Section 24-124.01 also provided specific guidance regarding the types of off-site bicycle and pedestrian improvements that may be required, per Section 24-124.01(d):

- (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.**

Information regarding the off-site improvements needs to be submitted consistent with the guidance provided in Section 24-124.01. Possible off-site improvements were discussed with both the applicant and the Prince George's County Department of Public Works and Transportation (DPW&T). The network of sidewalks provided on the Brickyard development is comprehensive and includes wide sidewalks along both Muirkirk Road and Cedarhurst Drive. Standard sidewalks are provided along both sides of other roads. Furthermore, designated bicycle lanes have been striped along Cedarhurst Drive for approximately 3,200 linear feet north of Muirkirk Road.

Three different off-site improvements were evaluated, and several other options were also considered. These improvements included:

Alternative 1: Sidewalk and ADA improvements along Muirkirk Road to Muirkirk South Park.

Alternative 2: Improvements to the existing mid-block crossing along Muirkirk Road to Muirkirk South Park.

Alternative 3: Retrofit the existing sidewalk along the south side of Muirkirk Road to meet current ADA standards and County specifications between Old Baltimore Pike and Conway Road.

Alternative 1 is well beyond the cost cap due to the amount of improvements necessary for the Old Baltimore Pike and Muirkirk Road intersection. Work necessary to provide curb and gutter along this segment of road would also push the project well beyond the cost cap. Alternative 2 is not recommended due to the location of the crossing. DPW&T is generally against mid-block crossings for safety reasons and, when the full Americans with Disabilities Act (ADA) improvements are completed at the signalized intersection of Old Baltimore Pike and Muirkirk Road, it is likely the crossing will be moved to this location. Alternative 3 is within the cost cap and supported. This improvement will replace the existing sidewalk on the south side of Muirkirk Road with an ADA-accessible sidewalk that meets current DPW&T standards. A more direct pedestrian connection linking the townhouses with the adjacent MARC platform was also evaluated, but this connection is not feasible due to existing wetlands and stormwater management structures.

Demonstrated nexus between the subject application and the off-site improvements:

Section 24-124.01(c) requires that a demonstrated nexus be found with the subject application in order for the Planning Board to require the construction of off-site pedestrian and bikeway facilities. This section is copied below, and the demonstrated nexus between each of the proffered off-site improvements and the subject application is summarized below.

- (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 bike 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 rights of way.**

Demonstrated Nexus Finding: The off-site ADA and sidewalk improvements will directly benefit the future residents of the subject site by providing an ADA-accessible pedestrian route along the south side of Muirkirk Road in the immediate vicinity of the subject site. This accessible sidewalk will improve access from the site to the existing Muirkirk South Park, located in the southeast corner of the intersection of Cedarhurst Drive and Muirkirk Road, and several bus stops.

Finding of Adequate Bicycle and Pedestrian Facilities:

Council Bill CB-2-2012 requires that the Planning Board make a finding of adequate bicycle and pedestrian facilities at the time of PPS. Council Bill CB-2-2012 is applicable to PPS within designated centers and corridors. The subject application is located within the designated Greenbelt Road Corridor, as depicted on the Adequate Public Facility Review Map of the General Plan. Council Bill CB-2-2012 also included specific guidance on the criteria for determining adequacy, as well as what steps can be taken if inadequacies need to be addressed.

As amended by Council Bill CB-2-2012, Sections 24-124.01(b)(1) and (2) of the Subdivision Regulations, include the following criteria for determining adequacy:

(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 include, at a minimum, 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.

(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).

(These elements address many of the design features that make for a safer and more inviting streetscape and pedestrian environment. Typically, these are the types of facilities and amenities covered in overlay zones).

An extensive network of pedestrian facilities has been constructed through the Brickyard development and along its associated road frontages. The subject application continues this for the portion of the development included in this approval. A wide sidewalk currently exists along the north side of Muirkirk Road, including the frontage of Brickyard. Sidewalks need to be provided along both sides of all internal roads, excluding alleys. Sidewalks are provided between sticks of townhouses in some locations and an extensive network of internal sidewalks is provided in the front of rear-loaded units. A wide sidewalk exists along the west side of Cedarhurst Drive through road improvements completed for other portions of the Brickyard development. The off-site improvements will complement the improvements already completed by the Brickyard development and provide an ADA-accessible sidewalk along the south side of Muirkirk Road in the immediate

vicinity of the subject site that will improve access from the subject site to the Muirkirk South Park and several existing bus stops.

- (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;**
 - (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;**
 - (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**
 - (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.**

Bicycle lanes exist along Cedarhurst Drive for approximately 3,200 linear feet north of Muirkirk Road. The MPOT recommends designated bicycle lanes along Muirkirk Road, and these can be considered by DPW&T at the time of road resurfacing. A sidepath has been constructed along the west side of US 1 between Ammendale Road and Ritz Way. These existing and planned facilities will accommodate cyclists in the vicinity of the subject site and it is anticipated that additional bicycle lanes (or other appropriate on-road bike facility) will be provided as road resurfacing is done in the area. Bicycle facilities are adequate in the vicinity of the subject site. The off-site improvements shall be directed towards pedestrian and ADA access along the south side of Muirkirk Road.

10. **Transportation**—The subject property consists of 12.71 acres of land in the I-2 Zone. The property is northwest of Brickyard Boulevard at its intersection with Brickyard Station Drive, and generally north of Muirkirk Road on the east side of the CSX railroad tracks just north of the Muirkirk MARC Station. This application is for the resubdivision of Parcels C, D, F, G, and I of The Brick Yard to create 188 single-family attached lots. The site is within an MPC as defined by Section 27-475.06.05 of the Zoning Ordinance.

Traffic Impact

The application is a PPS for residential lots within an MPC as defined by Section 27-475.06.05 of the Zoning Ordinance. There are no requirements regarding the subdivision process for this use. However, it is required that development within an MPC shall be situated so that uses generating a minimum of 50 percent of all trips proposed in the entire MPC shall be located no further than 1,320 feet from the center of the mass transit rail station platform.

This application includes the resubdivision of Parcels C, D, F, G, and I of The Brick Yard to create 188 single-family attached lots. The above-mentioned parcels were originally created pursuant to PPS 4-07053, a mixed-use subdivision. Detailed Site Plan DSP-07034 indicated that the building would have been on Parcels C, D, F, and G and would have contained 427 multifamily residences and 24,167 square feet of commercial space. Per the analysis that determined the trip cap for the prior PPS 4-07053, the following table was developed:

Trip Generation Summary, 4-16035, The Brickyard, Parcels C, D, F, G, and I								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Tot	In	Out	Tot
Approval Per 4-07053								
Office/Commercial Less 5 percent Transit Reduction	24,167	square feet	42	5	47	8	34	42
Multifamily Residences Less 11.25 percent Peak Direction Transit Reduction	427	residences	43	159	202	148	90	238
Net Trips Per 4-07053			85	164	249	156	124	280
Current Proposal								
Townhouse Residences Less 11.25 percent Peak Direction Transit Reduction	188	residences	27	94	121	88	53	141
Net Trips of Current Proposal			27	94	121	88	53	141
Change from Approved Plan			-58	-70	-128	-68	-71	-139

The traffic generated by the proposed PPS would impact the following intersections, interchanges, and links in the transportation system:

- US 1 and Muirkirk Meadows Drive
- Muirkirk Road and Virginia Manor Road
- Muirkirk Road and Muirkirk Meadows Drive
- Muirkirk Road and Cedarhurst/Old Baltimore Pike
- Muirkirk Road and Conway Road/MARC Access
- Muirkirk Road and site access
- Cedarhurst Drive and site access

The application is supported by a traffic statement that the impact of the current PPS is less than the traffic impact of the original approval. The table above fully supports that conclusion.

The subject property is located within Transportation Service Area (TSA) 2, as defined in the General Plan. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level of Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the Guidelines.

Unsignalized intersections: The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. Once the CLV exceeds 1,150, this is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Due to the net reduction in the trip generation of the site, the Planning Board deems the site's impact at this location to be *de minimus*. It is found that a reduction of 128 AM and 139 PM peak hour trips resulting from the approved development, which will generate 121 AM and 141 PM peak hour trips, will have a *de minimus* impact upon delay in the critical movements at the critical intersections for the original subdivision.

For the approved development, a trip cap of 121 AM and 141 PM peak hour trips, consistent with 188 townhouse residences and the reductions used in approving the prior PPS, is approved.

Master Plan/Right-of-Way

The site is not within or adjacent to any master-planned transportation facilities. Access and circulation is acceptable. The site will be served by private streets and alleys. Section 24-128(b)(16) of the Subdivision Regulations requires that alleys only provide access to lots with frontage on a public street. This application includes a Variation to Section 24-128(b)(16), as discussed further.

Based on the preceding findings, adequate transportation facilities will exist to serve the proposed subdivision as required in accordance with Section 24-124 of the Subdivision Regulations.

11. **Variation 24-128(b)(16)**—Section 24-128(b)(16) of the Subdivision Regulations provides the following criteria for lots, which are provided vehicular access via an alley:

(16) Within a MARC Planned Community developed in accordance with Section 27-475.06.05, the Planning Board may approve a subdivision with private roads, rights-of-way, easements or alleys provided that:

(B) The pavement width of private alleys shall be not less than eighteen (18) feet when it is determined that the provision of the minimum width is consistent with safe, efficient, vehicular access to individual lots. Since alleys only provide vehicular access to lots with frontage on a public street, alleys shall not be required to be improved with street trees or curb and gutter, unless a drainage problem has been identified by the Department of Environmental Resources or the Department of Permitting, Inspections, and Enforcement; and

The subject site includes access and circulation through a network of private streets and alleys. Section 24-128(b)(16) of the Subdivision Regulations states that alleys only provide access to lots with frontage on a public street. The applicant requests approval of a variation for Lots 452-479, 495-569 and 596-621, which are accessed by alleys without frontage on a public street. These lots front on private streets or open-space areas. This layout is consistent with the adjacent residential development within the Brickyard MPC. Section 24-113(a) of the Subdivision Regulations 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)(16) could result in practical difficulties to the applicant, as explained below, that could result in the applicant not being able to develop this property consistent with the surrounding development within the Brickyard MPC.

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

As previously discussed the access is consistent with the surrounding development. The alleys (22 feet wide) and the private streets (24 feet wide) exceed the minimum width requirements contained in Section 24-128(b)(16). It is determined that the variation is in conformance with this requirement.

(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;

This property is abutting a CSX right-of-way to the west and industrial development to the north and does not provide access to adjacent properties. The Brickyard MPC has been designed with private streets to provide access for the residents within the community. The residential development component of this industrially zoned site for a MPC is specifically required in accordance with Council Bill CB-21-2006. 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

The variation to Section 24-128(b)(16) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. 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 24-128(b)(16) of the Subdivision Regulations, in this case, would result in the loss of 129 townhouse lots, a 69 percent reduction in the total units proposed with this PPS, which complete the street grid and lotting pattern consistent with the surrounding development. This would result in a particular hardship to the applicant as they would be incapable of developing the property to its full potential if the strict regulations were carried out.

- (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 variation to Section 24-128(b)(16) for Lots 452-479, 495-569, and 596-621, which do not have frontage on a public street, is approved.

12. **Schools**—This PPS has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and Council Resolution CR-23-2003, and concluded the following:

Impact on Affected Public School Clusters
 Attached Single-Family Units

Affected School Clusters #	Elementary School Cluster 1	Middle School Cluster 1	High School Cluster 1
Dwelling Units	190 DU	190 DU	190 DU
Pupil Yield Factor	0.145	0.076	0.108
Subdivision Enrollment	28	14	21
Actual Enrollment	9,518	3,712	5,838
Total Enrollment	9,546	3,726	5,859
State Rated Capacity	8,960	3,938	6,288
Percent Capacity	107%	95%	93%

Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between the Capital Beltway (I-95/495) and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$9,017 and \$ 15,458, 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 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 Section 27A-106 of the Prince George's County Code; within an approved transit district overlay zone; or where there is no approved transit district overlay zone then within a 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.

13. **Fire and Rescue**—This PPS had been reviewed for adequacy of fire and rescue services in accordance with Sections 24-122.01(d) and 24-122.01(e)(1)(C) and (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 calls for service during the preceding month.”

The project is served by Laurel Fire/EMS, Company 831, a first due response station (a maximum of seven minutes travel time), located at 3939 Powder Mill Road.

“In the Fire/EMS Department’s Statement of Adequate Apparatus, as of July 15, 2016, the Department states they have developed an apparatus replacement program to meet all the service delivery needs of the County.”

Capital Improvement Program (CIP)

There are no CIP projects for public safety facilities proposed near the subject site.

14. **Police Facilities**—The subject property is in Police District VI, Beltsville. The response time standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. This PPS was accepted for processing by the Planning Department on April 28, 2017.

Based on the most recent available information provided by the Police Department, as of December 2015, the police response time standards of 10 minutes for emergency calls and the 25 minutes for nonemergency calls were met.

15. **Water and Sewer**—Section 24-122.01(b)(1) of the Subdivision Regulations 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 this property in water and sewer Category 3, Community System. The property is within Tier 1 under the Sustainable Growth Act and will therefore be served by public systems.

16. **Use Conversion**—The total development included in this PPS is 188 single-family attached residential units in the I-2 Zone. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings as set forth in the resolution of approval, that revision of the mix of uses shall require approval of a new PPS prior to approval of any building permits.
17. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

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

This subdivision provides internal circulation through a network of private streets and alleys. Section 24-128(b)(12) of the Subdivision Regulations requires that 10-foot-wide public utility easements (PUEs) be provided along one side of all private streets. PUEs are not shown on the submitted PPS; however, the applicant submitted an easement exhibit showing the proposed utility easement locations. Since acceptance of this PPS application, the PPS has been revised to include an additional private street, which is not reflected on the easement exhibit plan. Prior to signature approval of the PPS, the applicant should revise the PPS to reflect the location of the PUEs and, prior to approval of a final plat, the applicant should file a variation request from Section 24-28(b)(12) of the Subdivision Regulations for any areas which do not provide for a 10-foot-wide PUE along one side of the private streets within this PPS.

18. **Historic**—Most of the property was extensively graded as part of the previous development applications and has been extensively disturbed. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. This proposal will not impact any historic sites, historic resources, or known archeological sites.
19. **Environmental**—The Environmental Planning Section previously reviewed the following applications and associated plans for the subject site:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
4-04120	TCPI/011/05	Planning Board	Approved	7/07/2005	05-155
4-07053	TCPI/011/05-01	Planning Board	Approved	5/15/2008	08-77
DSP-05024	TCPII/118/05	Planning Board	Approved	10/27/2005	05-216
DSP-05070	TCPII/118/05-01	Planning Board	Approved	2/16/2006	06-34
DSP-05070-01	TCPII/118/05-02	Planning Director	Approved	3/15/2007	N/A

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
DSP-05070-02	TCPII/118/05-03	Planning Director	Approved	12/27/2007	N/A
DSP-05070-03	TCPII/118/05-07	Planning Board	Approved	7/25/2013	13-80
DSP-05070-04	TCPII/118/05-08	Planning Director	Approved	6/16/2015	N/A
DSP-07034	TCPII/118/05-03	Planning Board	Approved	5/15/2008	08-78
DSP-07034-01	TCPII/118/05-05	Planning Director	Approved	10/14/2011	N/A
DSP-07034-02	TCPII/118/05-06	Planning Director	Approved	5/30/2012	N/A
DSP-07034-03	N/A	-----	Pending	----	---
DSP-07034-04	TCPII/118/05-06	Planning Director	Approved	5/20/2013	N/A
DSP-07034-05	N/A	Planning Director	Approved	7/18/2013	N/A
DSP-07034-06	TCPII/118/05-08	Planning Director	Approved	7/28/2014	N/A
DSP-07034-07	N/A	Planning Director	Approved	5/6/2014	N/A
DSP-07034-08	TCPII/118/05-09	Planning Director	Approved	3/20/2015	N/A
DSP-07034-09	TCPII/118/05-10	Planning Board	Pending	-----	-----

The Environmental Planning Section has also reviewed the site for a Natural Resources Inventory Equivalency Letter (NRI-065-2017), which was issued on March 29, 2017.

Proposed Activity

The current application is for the resubdivision of existing Parcels C, D, F, G, and I into 188 lots and 15 parcels for use in the I-2 Zone for a total of 188 townhomes.

In conjunction with this request, the overall Type 1 Tree Conservation Plan (TCP1-011-05-01) that includes this area will be revised. The area of this PPS application is 12.71 acres. The area of the TCP1 being reviewed with this application is 103.27 acres.

Grandfathering

The project is subject to the requirements of Subtitle 24 (Subdivision Regulations), Subtitle 25 (Woodland and Wildlife Habitat Conservation Ordinance), and Subtitle 27 (Zoning Ordinance) that became effective on September 1, 2010, because the application is for a new PPS.

Site Description

This 12.71-acre PPS is part of a larger project site that is approximately 103.27 acres in size known as The Brick Yard, which has previous approvals as listed in the table above. The area associated with this application is located in northern Prince George’s County in the northwestern quadrant at the intersection of Brickyard Station Drive with Brickyard Boulevard. This site was previously cleared in accordance with a rough grading permit and does not contain any woodlands or specimen/historic/champion trees. A review of the available information identified that regulated environmental features such as, streams, associated buffers, and primary management exist on-site. This site is not within an area of County-regulated 100-year floodplain, nor is it associated with wetlands or wetland buffers. This site is outside of the Chesapeake Bay Critical Area. This site is located in the Indian Creek watershed, which drains into the Potomac River Basin. The site is not located in a stronghold watershed. The predominant soils found to occur

on-site, according to the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Web Soil Survey (WSS), include Udorthents, reclaimed clay pits (0–5 percent slopes), and Urban land-Russett-Christiana complex (0–5 percent slopes). According to available information, soils containing Marlboro clay are not found on this property; however, this site does consist of soils containing Christiana complexes. This site is not within a Sensitive Species Protection Review Area (SSPRA) based on a review of the SSPRA GIS layer prepared by the Heritage and Wildlife Service, Maryland Department of Natural Resources. No forest interior dwelling species (FIDS) habitat is located on-site. None of the streets that the site fronts on have a historic or scenic designation. According to the 2017 *Countywide Green Infrastructure Plan* (Green Infrastructure Plan), the site includes an evaluation area within the designated network of the plan.

Plan Prince George's 2035 Approved General Plan

Prior to submittal of the PPS application, a new General Plan was adopted by the District Council. The site is now located within Environmental Strategy Area 2 (Developing) of the Regulated Environmental Protection Areas Map, as designated by the Plan Prince George's 2035 General Plan. This site is also part of the Muirkirk MARC Neighborhood Center.

Countywide Green Infrastructure Plan

The 2017 Green Infrastructure Plan was approved with the adoption of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017) on March 7, 2017. According to the Green Infrastructure Plan, the site does contain an evaluation area within the designated network of the plan along the northern portion of the site covering approximately 16 percent of the site; however, this portion of the site was previously developed in conformance with an approved rough grading permit associated with an approved Detailed Site Plan (DSP-07034) and Type 2 Tree Conservation Plan (TCP2-118-05). The entirety of the evaluation area has been previously graded and developed. Since the site falls outside of the regulated area of the designated network of the Green Infrastructure Plan and since the evaluation area has been entirely improved in accordance with approved permits, the site was found to be in conformance with the Green Infrastructure Plan. No further review for conformance is needed for this application.

Area Master Plan Conformance

The area master plan for this area is the Subregion 1 Master Plan and SMA. The Environmental Infrastructure section of the master plan contains goals, policies, and strategies. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

Policy 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded.

This project has an approved Stormwater Management Concept Plan (5249-2005-03) and letter issued by the Site/Road Plan Review Division of DPIE that will meet water quality and quantity requirements.

Policy 3: Implement the State Storm Water Management Act of 2007 in Subregion 1 as of the adoption of this Plan to enhance the water quality and control flooding in the Anacostia and Patuxent River watersheds.

A stormwater management concept letter and plan that is in conformance with the current code has been issued by DPIE. The Site/Road Plan Review Division will review the project for conformance with the current provisions of the County Code which address the state regulations.

Policy 4: Implement more environmentally sensitive building techniques and reduce overall energy consumption.

The use of green building techniques and energy conservation techniques should be used as appropriate. The use of alternative energy sources such as solar, wind, and hydrogen power is encouraged.

Policy 5: Reduce light pollution and intrusion, especially into the Rural Tier and environmentally sensitive areas.

The site is adjacent to existing single-family homes. The use of alternative lighting technologies is encouraged so that light intrusion onto adjacent properties is minimized. Full cut-off optic light fixtures should be used.

Policy 6: Reduce air pollution by placing a high priority on transportation demand management (TDM) projects and programs.

The Transportation Planning Section will review the application further for appropriate strategies.

Environmental Review

As revisions are made to the plans submitted, the revision boxes on each plan sheet shall be used to describe the changes, the date made, and by whom.

Natural Resources Inventory

An approved Natural Resources Inventory Equivalency letter (NRI-065-2017) was submitted with the review package, which expires on March 29, 2022. The site contains no existing woodlands and no specimen/historic/champion trees. Revised features such as the expanded stream buffer and the primary management area (PMA) are reflected on the TCP1. No additional information is required with regard to the NRI.

Woodland Conservation

This site is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the site has a previously approved TCP. A Type 1 Tree Conservation Plan, TCP1-011-05-01, was previously approved for this site. A revised TCP1 has been submitted.

The site has a woodland conservation threshold of 15 percent or 17.40 acres, based on the area of the TCP. According to the worksheet, the cumulative woodland conservation requirement for both phases of development, based on the total proposed clearing for this project, is 25.94 acres. The TCP1 proposes to meet this requirement through a combination of 3.78 acres of preservation, 8.36 acres of reforestation, and 13.80 acres in off-site woodland conservation banks. No additional clearing is proposed with this revision.

Only two revisions are required to the TCP1. A boundary showing the limits of this PPS shall be added to Sheet 1 of the TCP1. There is no clear indication on Sheet 1 as to where the extent of PPS 4-16035 is in reference to the overall TCP1. A boundary line shall be added to the TCP1 showing the full extent of this PPS application. The required General Information Table shall also be added to the TCP1.

Preservation of Regulated Environmental Features/Primary Management Area

Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property, or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for stormwater management facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. Stormwater management outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, stormwater management facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with the County Code.

The site contains regulated environmental features. Two impacts were previously approved under PPS 4-07043 in the form of variations. These impacts included installation of a 42-inch-wide water line within an existing Washington Suburban Sanitary Commission easement, the construction of a storm drain outfall, and installation of a noise barrier. All previously approved impacts were constructed, with the exception of the noise barrier. Subsequent to the subdivision approval (4-07043), the stream buffer requirements were increased to 75 feet in 2010 per Section 24-101(b)(31) of the Subdivision Regulations.

According to PPS 4-16035 and the revised TCP1, impacts to the stream buffer are proposed for grading of several townhouse lots, a noise barrier, parking, and circulation. A statement of justification has been received for the impacts, which are within the PMA.

Statement of Justification

The statement of justification included an exhibit requesting impacts to the PMA totaling approximately 60,065 square feet on-site, or 1.38 acres. The impacts are for the grading of lots, a noise barrier, parking, and circulation. The remaining area of PMA within the area of the subject application, not included in the exhibit, was graded in accordance with previous approvals, which allowed impacts to the PMA, and those impacts are also approved with this application.

Analysis of Impacts

The area of PMA consists of stream buffer associated with a stream that flows along the western and northern property boundaries.

Impacts associated with grading and installation of the noise barrier were previously approved under PPS 4-07043, as they were considered necessary to mitigate for excessive noise entering the site from the MARC commuter rail and Baltimore Avenue (US 1) to the north of the property. This impact is still necessary, as a similar residential use is included on-site with the current PPS application.

Impacts associated with parking, circulation, and grading for several townhouse lots coincide with the same area of the site that was previously approved for construction and grading of part of a multifamily building with associated parking and circulation under PPS 4-07043. Grading for lots and parking within the PMA is not generally supported; however, given that the site is already graded in accordance with previous approvals, and the impact for the noise barrier cannot be avoided, the impacts to the PMA with this PPS application are approved.

Based on the level of design information currently available, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of disturbance shown on the impact exhibit and the TCP.

20. **Noise and Vibration**—There are noise and vibration impacts associated with the property from the CSX tracks, which are located west of the site.

Noise

A Phase II Noise Analysis dated March 29, 2017 was prepared by Phoenix Noise & Vibration, LLC. Although noise measurements used in the submitted analysis were obtained in May 2007, Phoenix Noise & Vibration, LLC, conducted a noise sampling in May 2017 to verify that noise levels had not increased since that time. The May 2017 noise sampling results indicated the current noise levels to be slightly lower than those recorded in 2007. Therefore, the May 2017 noise analysis using measurement data from May 2007 was accepted. The analysis considered railway noise from the adjacent CSX tracks, as well as noise generated from US 1 and Muirkirk Road, which are not abutting but are located west and south of the site respectively. The noise analysis

addressed outdoor noise, interior noise and considered mitigation provided through the location of a 10- to 12-foot-tall noise barrier along the western boundary of the site based on the current layout of the townhouse buildings. The noise barrier detail is provided in the plans for Detailed Site Plan DSP-07034-09 and is a brick-form, fiber enforced, sound absorptive concrete.

The PPS illustrates, and noise measurement results indicate, that the site will be subject to noise levels above 65 dBA Ldn at ground and upper levels. The noise analysis indicates that the noise barrier will reduce ground level noise in all rear yards and courtyard areas throughout the site to below 65 dBA Ldn. However, it appears that the rear of Lots 431-441 along the southern portion of the site will be impacted by noise levels at or above 65 dBA Ldn according to the noise model provided in the analysis. These lots are rear-loaded and do not have rear-yard areas, however, if decks are proposed, they may be negatively impacted by noise. The applicant shall extend the noise barrier to mitigate the rears of these units, provide alternative mitigation, or provide notice to purchasers that the rear decks may be negatively impacted by noise from the CSX tracks. The noise analysis indicates that modified building materials will be needed to reduce interior noise levels to 45 dBA Ldn or less. The analysis evaluated the standard building materials for the architecture proposed in DSP-07034-09 for this site and provided specific modifications needed for architecture to reduce interior noise levels to 45 dBA Ldn or less. The DSP includes findings and conditions relative to the architectural building materials necessary for the interior noise mitigation.

Residential lots are required to be platted with a 300-foot lot depth, when adjacent to an existing transit right-of-way, in accordance with Section 24-121(a)(4) of the Subdivision Regulations. This application includes approval of a variation for 97 of the townhouse lots which do not meet the required 300-foot lot depth. An evaluation of the variation is discussed further.

Vibration

A vibration analysis was completed for the site in September 2007 by Phoenix Noise & Vibration, LLC which indicated that vibration levels for the site did not exceed the recommended limits established by the International Standards Organizations (ISO) and Federal Transit Authority (FTA) for residential structures, noting that the limits established by the ISO and FTA apply to occupant comfort and not structural damage. The analysis indicates that all measured levels were well below the limits established for the slightest structural damage.

The limits established for residential uses is 200 micrometers/second ($\mu\text{m/s}$) by the ISO and 143 $\mu\text{m/s}$ by the FTA. Measurement locations A and B within the analysis are specific to the area of this PPS. The highest vibration level was measured at location A and was 67 $\mu\text{m/s}$. Phoenix Noise & Vibration, LLC provided a letter dated May 24, 2017, indicating, to their knowledge, no modifications to the railroad tracks or site grounds have been made that would increase the vibration levels to the subject parcels (Parcels C, D, F, G and I). Further, any increase or decrease to railway activity would not affect the vibration levels, only the frequency. Since there has been no change to the site relative to the vibration level from railway events, the results of the original vibration analysis are still valid and no mitigation is recommended.

21. **Variation 24-121(a)(4)**—Section 24-121(a)(4) of the Subdivision Regulations provides the following criteria for lots abutting specific rights-of-way:

- (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 subject site has frontage along the CSX MARC train tracks and right-of-way to the west. Residential lots are required to be platted with a 300-foot lot depth when adjacent to a transit right-of-way in accordance with Section 24-121(a)(4) of the Subdivision Regulations. The applicant requests approval of a variation for 97 of the 188 townhouse lots which do not meet the required 300-foot lot depth. 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 of the Subdivision Regulations could result in practical difficulties to the applicant, resulting in the applicant not being able to develop this property for its intended purpose.

- (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 Noise and Vibration Finding, mitigation will be provided to ensure no ground-level noise impacts will affect the outdoor activity areas pursuant to the noise study provided. Conditions pertaining to the structural design of the townhomes for the mitigation of interior noise will be applied with the DSP. Further, vibration impacts are found to be well below the ISO and FTA standards. It is determined that the variation is in conformance with this requirement.

- (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;**

This property is abutting a CSX right-of-way which is subject to specific lot depth requirements. However, the residential development component of the site for a MPC is specifically required in accordance with Council Bill CB-21-2006. 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 require certification by a professional engineer with competency in acoustical analysis be placed on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less, prior to issuance 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 97 townhouse lots, a 50 percent reduction in the total units approved with this PPS, which complete the lotting pattern oriented closest to MARC Station. This would result in a particular hardship to the applicant as it would be incapable of developing the property to its full potential if the regulations were carried out in a strict manner.

- (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 variation to Section 24-121(a)(4) for the 97 lots that do not meet the 300-foot lot depth is approved.

22. **Urban Design**—This application is being processed concurrently with Detailed Site Plan DSP-07034-09, which includes development details for the townhouse lots approved in this application. The following comments are offered with respect to the Urban Design review:

Conformance with the Requirements of the Zoning Ordinance

DSP review is required for all attached development in accordance with Section 27-470 of the Zoning Ordinance, as well as Section 27-475.06.05, which regulates uses in an MPC. Detailed Site Plan DSP-07034-09 is being heard on the same Planning Board hearing date concurrently with this application.

Conformance with the following Zoning Ordinance provisions is required for the development at the time of DSP:

Section 27-470, I-2 Zone (Heavy Industrial)
Section 27-475.06.05, MARC Planned Community
Section 27-441, Uses permitted
Section 27-442, Regulations
Section 27-582 of Part 11 (Parking and Loading) and Part 12 (Signs)

Conformance with the 2010 Prince George's County Landscape Manual

The development will be subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). More specifically, the application is subject to Section 4.1, Residential Requirements; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets. Conformance with the requirements of each of these sections has been evaluated in conjunction with the DSP-07034-09 review.

Existing Structures

An existing cell tower (monopole) and billboard are located on the subject site. These structures are proposed to remain. Detailed Site Plan DSP-07034 includes findings and conditions associated with the cell tower. Due to the previous approval and conditions with the DSP regarding the cell tower, the current proposal to retain the existing structures has been evaluated with DSP-07034-09. If these structures are approved to remain on the subject site, adequate access shall be ensured to parcels containing the structures and the PPS should be revised, as needed, to reflect any layout changes as a result of DSP approval.

Tree Canopy Coverage

Section 25-125 of the County Code requires projects which involve more than 5,000 square feet of land disturbance to provide a certain percentage of the area of the site in tree canopy coverage. More particularly, projects located in the I-2 Zone are required to provide 15 percent in tree canopy coverage. As applied to the subject site, the calculations are as follows:

Zone	Acreage	Percent	Acreage Required	Sq. Ft. Required
I-2	12.71	10	1.27	55,321.2

Conformance with the Prince George’s County Tree Canopy Ordinance has been evaluated in conjunction with the DSP-07034-09 review.

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 Geraldo, with Commissioners Washington, Geraldo, Doerner, and Hewlett voting in favor of the motion, and with Commissioner Bailey temporarily absent at its regular meeting held on Thursday, June 29, 2017, in Upper Marlboro, Maryland.

Adopted by the Prince George’s County Planning Board this 29th day of June 2017.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator