

RESOLUTION

WHEREAS, Brandywine Corner, LLC is the owner of a 5.03-acre parcel of land known as Brandywine Corner, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned C-M; and

WHEREAS, on November 18, 2019, Brandywine Corner, LLC filed an application for approval of a Preliminary Plan of Subdivision for 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-18026 for Brandywine Corner 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 February 6, 2020, 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 February 6, 2020, 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 TCP1-014-2019, and APPROVED a Variation from Section 24-122(a), and further APPROVED Preliminary Plan of Subdivision 4-18026 for Brandywine Corner with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
 - a. Remove the Maryland-National Capital Park and Planning Commission approval blocks from the plan.
2. A substantial revision to the mix of uses on the subject property that affects Subtitle 24 adequacy findings, as set forth in a resolution of approval, shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.
3. Development of the site shall be limited to uses that would generate no more than 170 AM and 162 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

4. Development of this site shall be in conformance with the approved Stormwater Management Concept Plans (48737-2018-00 and 440535-2015-00) and any subsequent revisions.
5. Prior to approval of the first building permit for Parcel 1, the applicant shall provide a fee of \$1,680 to \$3,360 to the Department of Permits, Inspections, & Enforcement (DPIE) for the installation of at least four, but no more than eight, “share the road” bike way signage assemblies to be located per the direction of DPIE.
6. Prior to approval of a final plat:
 - a. The final plat shall grant 10-foot-wide public utility easements, in accordance with the approved preliminary plan of subdivision.
 - b. The final plat shall note the Prince George’s County Planning Board’s approval of a Variation from Section 24-122(a) of the Subdivision Regulations, in accordance with the approving resolution for Preliminary Plan of Subdivision 4-18026, for the location of the public utility easement along MD 5 (Branch Avenue).
 - b. The applicant and the applicant’s heirs, successors, and/or assignees shall provide a draft Access Easement Agreement or Covenant, for access to Parcel 1, to the Maryland-National Capital Park and Planning Commission (M-NCPPC), Development Review Division, for review. The easement agreement shall contain the rights of M-NCPPC, be recorded in land records, and the Liber/folio shown on the final plat prior to recordation. The final plat shall reflect the location and extent of the easement, in accordance with the approved preliminary plan of subdivision.
7. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised, as follows:
 - a. Revise the woodland conservation worksheet to indicate the site acreage as 5.03 acres.
 - b. Revise the specimen tree table to remove trees 1, 2, 3, and 6 and remove these trees from the plan as they are not considered specimen trees.
 - c. Revise the specimen tree table to add an asterisk on trees 4 and 7 to indicate that these trees are located off-site.
 - d. Add a limit of disturbance to the plan and add symbols and labels to the legend.
 - e. The woodland conservation worksheet indicates that there is no off-site clearing; however, the plan indicates that off-site clearing may be necessary. Revise the plan and worksheet as necessary to ensure that all proposed clearing is accounted for.

- f. Revise TCP Note 1 to read "TCP1-014-2019" not "NRI-141-15."
 - g. Add the following note to the plan under the specimen tree table:

"NOTE: A variance application to Section 25-122(b)(1)(G) was approved by the District Council in association with the approval of DSP-15012 to allow removal of Specimen Tree 5."
 - h. Have the revised plan signed and dated by the qualified professional who prepared it.
8. Prior to approval of a building permit, a fee calculated as \$2.07 per square foot of gross floor area multiplied by (Engineering News Record Highway Construction Cost index at time of payment)/ (Engineering News Record Highway Construction Cost Index for first quarter, 1993), as shown in accordance with Prince George's County Council Resolution CR-9-2017, shall be determined. All fees shall be paid to Prince George's County (or its designee), to be indexed by the appropriate cost indices to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement.
9. In conformance with the 2009 *Approved Countywide Master Plan of Transportation*, the applicant and the applicant's heirs, successors and assignees shall provide a sidewalk along the subject site's frontage on Moores Road consistent with the Prince George's County Department of Public Works and Transportation and the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) standards, and subject to modification by DPIE with written correspondence.
10. Prior to acceptance of a future detailed site plan for Parcel 1, or approval of a building permit for Parcel 1 if a detailed site plan is not required, provide an exhibit that illustrates the location, limits, specifications, and details of the pedestrian and bicyclist adequacy improvements throughout the subdivision, consistent with Section 24-124.01(f) of the Subdivision Regulations. These improvements include:
- a. A direct pedestrian connection between the building on Parcel 1 and the western boundary of the access easement on Parcel 2, to allow for a future pedestrian connection from Parcel 1 to Moore's Road at the time of future development on Parcel 2; and
 - b. Bicycle parking racks near the primary entrances of all buildings on Parcel 1; the bike racks shall be the inverted-U style.

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 site consists of one existing parcel totaling approximately 5.03 acres, recorded in the Prince George's County Land Records in Liber 19140 folio 506. The site is located in the southwest quadrant of the intersection of MD 5 (Branch Avenue) and Moores Road and is in the Commercial Miscellaneous (C-M) Zone.

The subject application is approved two parcels for a total of 18,946 square feet of commercial development, including a northern Parcel 2 and a southern Parcel 1. Parcel 1 includes development of a 14,000-square-foot commercial building. Parcel 2 includes development of a gas station and 4,946-square-foot food or beverage store. The development on Parcel 2 was originally approved under Detailed Site Plan DSP-15012 and building permits have been issued for its construction.

Section 24-122(a) of the Prince George's County Subdivision Regulations requires that a 10-foot-wide public utility easement (PUE) be provided along the public road right-of-way. The applicant requested approval of a variation for the location of the PUE along MD 5, which is discussed further in this resolution.

A variance request to Section 25-122(b)(1)(G) of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) was initially filed with this preliminary plan of subdivision (PPS) application. However, it was determined through the review that the trees proposed for removal on this site were not specimen trees. The applicant subsequently withdrew the variance request in an email dated January 15, 2020 (Tedesco to Diaz-Campbell), incorporated by reference herein.

3. **Setting**– The site is located on Tax Map 134, Grid F-4 and Tax Map 144, Grid F-1, and is within Planning Area 85A. The site is located on the west side of MD 5, south of its intersection with Moores Road. To the west of the subject site are single-family detached dwellings in the Rural Residential (R-R) Zone and to the east are MD 5 and R-R-zoned properties beyond. South of the subject site is an unimproved right-of-way, Jannie Lane, with vacant R-R-zoned property beyond, and to the north beyond Moores Road are C-M zoned properties.
4. **Development Data Summary**—The following information relates to the subject PPS application and the approved development.

	EXISTING	APPROVED
Zone	C-M	C-M
Use(s)	Commercial	Commercial
Acreage	5.03	5.03
Gross Floor Area	4,946 square feet	18,946 square feet
Dwelling Units	0	0
Parcels	1	2
Lots	0	0
Outlots	0	0
Variance	No	No
Variation	No	Yes 24-122(a)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on December 2, 2019. The requested variation from Section 24-122(a) was accepted on November 18, 2019, and also heard before SDRC on December 2, 2019, as required by Section 24-113(b) of the Subdivision Regulations.

- 5. Previous Approvals**—DSP-15012 for the subject property was approved by the Prince George’s County District Council on May 2, 2016, with three conditions. The DSP was required for the gas station and 4,946-square-foot food and beverage store, including a departure from design standards for a loading space access driveway to be located less than 50 feet from a residentially zoned property.

Subsequently, the Planning Director approved a request to amend the location of the entrance to the building and other minor site changes as part of DSP-15012-01 on November 9, 2019.

A PPS is required for this development, in order to subdivide the property into two parcels, and to increase the development to over 5,000 square feet of gross floor area (GFA).

- 6. Community Planning**—The subject site is within the area of the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan and SMA), which retained the property in the C-M Zone. Conformance with the *Plan Prince George’s 2035 Approved General Plan* (Plan 2035) and the master plan are evaluated, as follows:

General Plan

This application is in an Established Communities Growth Policy area. According to Plan 2035, “Established Communities are most appropriate for context-sensitive infill and low-to-medium density development” (page 20).

Master Plan

The Subregion 5 Master Plan recommends residential low future land uses on the subject property. Residential low future land use areas are described as "Residential areas up to 3.5 dwelling units per acre. Primarily, single-family detached dwellings" (page 31). Staff found that, pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application is not required to conform to the Subregion 5 Master Plan and SMA because District Council has not imposed the recommended zoning.

7. **Stormwater Management**—A Stormwater Management (SWM) Concept Approval Letter (48737-2018-00) and associated plan were submitted with the application for this site. The approval is dated December 19, 2018 and expires December 19, 2021. The approval is for the southern commercial portion of the site. During DSP review of the northern gas station portion of the site, a SWM Concept Approval Letter (440535-2015-00) and associated plan were submitted. Currently, the southern commercial portion is shown as a graded pad site with drainage swales to convey stormwater, and no fee is required. The Prince George's County Department of Permitting, Inspections, and Enforcement (DPIE) is requiring a revised SWM concept approval when design plans are engineered for the southern portion of the site.

Development of the site shall conform with the SWM concept approvals and any subsequent revisions to ensure no on-site or downstream flooding occurs.

8. **Parks and Recreation**—In accordance with Section 24-134(a) of Subdivision Regulations, the subject subdivision is exempt from Mandatory Dedication of Parkland requirements because it consists of non-residential development.
9. **Trails**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the master plan. The site is within the MD 5 Corridor and is subject to Section 24-124.01 (Adequacy of Bicycle and Pedestrian Facilities in Centers and Corridors) of the Subdivision Regulations, as well as the "Transportation Review Guidelines, Part 2," (Guidelines, Part 2) at the time of PPS.

Previous Conditions of Approval and Findings

The subject site was reviewed and approved under DSP-15012, which included the following condition of approval:

3. **The applicant and the applicant's heirs, successors, and/or assignees shall provide the following:**
 - a. **Construct a sidewalk between the driveway and the west subject site boundary, as part of frontage improvements consistent with Department of Public Works and Transportation (DPW&T) standards, subject to modification by DPW&T.**

This condition requires a sidewalk along the subject site's frontage along Moores Road. No additional right-of-way dedication is required for the sidewalk. The applicant shall provide a sidewalk along the frontage of Moores Road consistent with DPW&T standards and subject to modification with written correspondence by DPIE.

Review of On-Site Improvements

The PPS does not provide walkways with rights-of-way at least 10 feet wide through all blocks over 750 feet long and does not meet the requirements pursuant to Section 24-121(a)(9).

The subject site frontage along MD 5 is approximately 1,000 feet and is subject to Section 24-121(a)(9). However, MD 5 is classified as a freeway and an additional pedestrian and bicyclist walkway through the middle of the property is not appropriate. This walkway would provide a connection from an existing single-family dwelling unit to MD 5, which neither currently has nor is planned to have, pedestrian or bicyclist facilities. Therefore, this walkway is not required.

Pursuant to Section 24-123(a)(6) of the Subdivision Regulations, there are no master or other County-planned trails, or other abutting trails that directly impact the subject site that need to be shown on the PPS.

No land dedicated for planned or abutting trails is required to be shown on the PPS.

Review of Connectivity to Adjacent/Nearby Properties

The subject site is adjacent to MD 5 on the east and Moores Road on the north; it is adjacent to sparsely developed residential properties to the west and south. The south end of the subject site has frontage along Jannie Lane, which is partially built as a driveway to the residential properties southwest of the site. The residential property directly west of the subject site also has frontage on Moores Road. Moores Road is currently an open section roadway without sidewalks or marked, or signed bike lanes.

The sidewalk along Moores Road (see below) will connect to a future sidewalk at the time of future development, creating a separated pedestrian network. The proffered bicycle improvements (below) associated with the proposed development will improve the bicycle network between properties.

Master Plan Compliance

MPOT

The Complete Streets element of the MPOT reinforces the need for these recommendations and includes the following policies regarding sidewalk and bikeway construction and the accommodation of pedestrians and bicyclists (MPOT, page 9-10):

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.

POLICY 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

POLICY 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.

The applicant shall provide a sidewalk on the property's frontage along Moores Road, as well as placement of bikeway signage to support the MPOT's Complete Streets policies.

Adequate Public Pedestrian and Bikeway Facilities

The subject site is in the Branch Avenue Corridor and is subject to Section 24-124.01 and the Guidelines, Part 2.

Review of On-Site Adequacy

The development does not include a list of on-site pedestrian and bicycle facilities. The applicant has indicated in a December 31, 2019 letter (Speech to M-NCPPC), that a sidewalk along Moores Road frontage, a connecting sidewalk within the subject site, and a bicycle rack will be provided at the time of DSP. In addition, DSP-15012 and a building permit for the subsequent development have been approved. The approved plans include a sidewalk at the frontage of the site connecting to the western property boundary. The recommended pedestrian and bicycle adequacy improvements are applicable to the southern parcel of the subject site.

To reflect the minimum bicycle and pedestrian facilities necessary for on-site adequacy pursuant to Section 24-124.01(b), the applicant shall provide, on the southern parcel, a pedestrian connection to the northern parcel of the subject site that is separated from motor vehicles; and bicycle parking near the primary entrances of all buildings on the southern parcel of the subject site. These improvements are not subject to cost cap for off-site facilities and shall be included on the site plan at the time of acceptance for a DSP. Should the subject site be developed by-right and without an approved DSP, a site plan with these improvements shall be submitted prior to approval of a building permit.

Cost Cap for Off Site Adequacy

The cost cap for the site is \$7,304.25. This number was developed by multiplying the nonresidential square footage by \$0.35 and then adjusting the total amount for inflation based on the U.S. Bureau of Labor Statistics Cost Price Index between June 2013 and today.

Review of the Off-Site Improvements

The development includes eight share-the-road bikeway signage assemblies within the vicinity of the subject site. There are four sign assemblies proposed along Moores Road and four sign assemblies proposed along Brandywine Road.

The eight signage assemblies will indicate to motorists using Moores Road and Brandywine Road that people bicycling may use the roadway as well and encourage that both people driving and bicycling share the roadway.

While Brandywine Road includes a planned bike lane along the full extent of the roadway, there has not been sufficient dedication along the roadway to install a bike lane at this time. The proposed bike lane can be installed as a future Capital Improvement Project (CIP) or roadway maintenance project by DPW&T or as future developments along Brandywine Road redevelop and provide the necessary dedication. The estimated costs for the off-site pedestrian and bicycle adequacy improvements are within the cost cap (\$3,360: \$420 per sign assembly) pursuant to Section 24-124.01(c). In addition, the pedestrian and bicycle facility improvements reflect the minimum facilities necessary for adequacy pursuant to Section 24-124.01(b).

Condition number 5 of this Resolution further modifies the requirements for applicant's implementation of the bikeway signage.

Finding of Demonstrated Nexus of Off-Site Improvements

The off-site bicyclist improvements proffered by the applicant will provide bikeway signage between the subject site and the planned bike lane along Brandywine Road, increasing connectivity between the subject site and the planned bikeway network for the County. In addition, the improvements will include signage along Brandywine Road, which can be used by people bicycling to and from the subject site.

Pursuant to Section 24-124.01, staff finds that there is a demonstrated nexus between the proffered improvements for the proposed development and nearby destinations.

Adequacy Summary for Public Bicycle and Pedestrian Facilities:

Based on the requirements and criteria contained in Section 24-124.01 and the pedestrian and bicycle improvements proposed by the applicant on- and off-site, the pedestrian and bicycle facilities are adequate to serve the subject property.

- 10. Transportation**—Transportation-related findings for adequacy are made with this application, along with any needed determinations related to dedication, access, and general subdivision layout. This application is supported by traffic counts and a traffic impact study (TIS) dated October 2019. The findings outlined below are based upon a review of these materials and analyses conducted consistent with the "Transportation Review Guidelines, Part 1", (Guidelines, Part 1).

The entire property was the subject of DSP-15012 approval, pursuant to PGCPB Resolution No. 16-06, in January 2016. The purpose of this application is to create a new parcel (Parcel 1) of approximately 1.65 acres and then develop that parcel with 14,000 square feet of retail. The remaining portion of the property will become Parcel 2 (3.38 acres) and maintain the development, which was the subject of the approved DSP-15012.

Analysis of Traffic Impacts

The table below summarizes trip generation in each peak hour that is used for the analysis and for formulating the trip cap for the site:

Trip Generation Summary - 4-18026 Brandywine Corner						
Land Use	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Proposed retail - 14,000 sq. feet (ITE-820)	99	60	159	61	66	127
<i>Less pass-by Trips 40% AM & PM</i>	-40	-24	-64	-25	-26	-51
New Retail Trips	59	36	95	36	40	76
New trip cap - Parcel 1	59	36	95	36	40	76
Approved convenience store with gas pumps (DSP-15012)						
Convenience Store w/gas pumps (ITE-853)	101	101	202	126	126	252
<i>Less pass-by trips</i>	63	64	127	83	83	166
Total convenience store trips - Parcel 2	38	37	75	43	43	86
Total Trip Cap for property (1+2)	97	73	170	79	83	162

Regarding the total traffic scenario, the subject application represents a development of 14,000 square feet of retail development. The above table shows a breakdown of the trip generation for the retail use, as well as the convenience store approved under DSP-15012. The conclusion is the proposed development will generate 95 AM and 76 PM peak trips while the previously approved convenience store (with gas pumps) will generate 75 AM and 86 PM peak trips.

The traffic generated by this PPS will impact the following intersections, interchanges, or links in the transportation system deemed to be critical:

- MD 5 and Moores Road - signalized
- Brandywine Road and Moores Road - signalized
- Moores Road and Site Access

The subject property is located within Transportation Service Area 2, as defined in Plan 2035. As such, the subject property is evaluated according to the following standards:

- a. **Links and signalized intersections:** Level-of-service D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better;
- b. **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.
- c. **Roundabouts:** Where the analysis using the Highway Capacity Manual (Transportation Research Board) indicates a volume-to-capacity ratio greater than 0.850 for the intersection, geometric improvements or trip reduction measures should be considered that will reduce the volume-to-capacity ratio to an acceptable level. The operating agency can deem a volume-to-capacity ratio between 0.850 and 0.900 to be acceptable, and that agency must do this in writing for the Planning Board to make a similar finding.

An October 2019 TIS was submitted and accepted as part of this PPS. The following tables represent results of the analyses of critical intersections under existing, background and total traffic conditions:

EXISTING TRAFFIC CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
Brandywine Road and Moores Road*	12.4 seconds	18.1 seconds
MD 5 and Moores Road*	411.7 seconds	356.2 seconds
Site Access and Moores Road*	n/a	n/a
* Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition.		

In evaluating the effect of background traffic, six background developments were identified in the TIS. In addition, a growth factor of 1 percent per year for two years was applied to the through traffic along MD 5. A background scenario analysis based on future developments yielded the following results:

BACKGROUND TRAFFIC CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
Brandywine Road and Moores Road*	15.4 seconds	22.6 seconds
MD 5 and Moores Road*	>999 seconds	>999 seconds
Level 3 CLV Test	F/1761	F/1651
Site Access and Moores Road*	10.2 seconds	10.0 seconds
* Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition.		

The critical intersections, interchanges, and links identified above, when analyzed with the programmed improvements and total future traffic as developed using the Guidelines, Part 1, including the site trip generation as described above, operate as follows:

TOTAL TRAFFIC CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
Brandywine Road and Moores Road*	16.2 seconds	24.5 seconds
MD 5 and Moores Road** Level 3 CLV Test	>999 seconds F/1777	>999 seconds F/1686
Site Access and Moores Road*	11.4 seconds	11.1 seconds
<p>*Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition.</p> <p>**Unsignalized intersections where the three-tier test has failed using the CLV procedure.</p>		

The results of the traffic analyses show that under total traffic, all the critical intersections are deemed to be operating adequately except for the MD 5/Moores Road intersection. The TIS recommended a contribution into the Brandywine Road Club. At the Planning Board hearing, citizens provided verbal testimony regarding traffic concerns and operations in the area. However, the subject property is located within Planning Area 85A and is affected by the Brandywine Road Club as a means of addressing vehicular transportation adequacy. The Planning Board concurs with the findings and conclusions of the TIS. Specifically, Council Resolution CR-9-2017 indicates the following:

1. **Establishes the use of the Brandywine Road Club for properties within Planning Areas 85A and 85B as a means of addressing significant and persistent transportation deficiencies within these planning areas.**
2. **Establishes a list of projects for which funding from the Brandywine Road Club can be applied.**
3. **Establishes standard fees by development type associated with the Brandywine Road Club to be assessed on approved development.**

This resolution works in concert with Prince George’s County Council Bill CB-22-2015, which permits participation in roadway improvements as a means of demonstrating adequacy for transportation, as required in Section 24-124. Specifically, CB-22-2015 allows the following:

1. **Roadway improvements participated in by the subdivider can be used to alleviate any inadequacy as defined by the “Guidelines.” This indicates that enough information must be provided to demonstrate that there is an inadequacy.**

2. **In order to use CB-22-2015, the subject property must be in an area for which a road club was established prior to November 16, 1993. In fact, the Brandywine Road Club was included in CR-60-1993 adopted on September 14, 1993, and it was developed and in use before that date.**

Pursuant to CR-9-2017, the Brandywine Road Club fee for the subject application will be \$2.07 per GFA for the commercial/retail/office facility. The fee will be indexed by the appropriate cost indices to be determined by DPIE. Pursuant to CB-22-2015, once the appropriate payment is made to the satisfaction of DPIE, no further obligation will be required of the applicant regarding the fulfillment of transportation adequacy requirements of Section 24-124(a).

Using trip generation rates from the *Trip Generation Manual, 10th edition* (Institute of Transportation Engineers), the new development (Parcel 1) will be adding 95 (59 in; 36 out) AM peak-hour trips and 76 (36 in; 40 out) PM peak-hour trips. Because Parcel 2 was the subject of a prior DSP approval, that site was evaluated with a trip generation of 75 (38 in; 37 out) AM peak-hour trips and 86 (43 in; 43 out) PM peak-hour trips. The total trip cap for the entire site (Parcels 1 and 2 combined) will be 170 AM (97 in; 73 out) and 162 PM (79 in; 83 out) net new trips.

Master Plan Roads and Site Access Evaluation

The property is in an area where the development policies are governed by the Subregion 5 Master Plan and SMA, as well as the MPOT.

One of the recommendations from the master plans is the upgrade of MD 5 to a freeway (F-9). The future right-of-way required for the F-9 upgrade is consistent with the existing right-of-way along the property's frontage, consequently no additional right-of-way is required. Moores Road has no master plan designation, so no additional right-of-way along the property's frontage on that road is required either.

There will be no direct access to a public street to serve Parcel 1 of this PPS. Direct access to MD 5 is prohibited in accordance with Section 24-121(a)(3). Jannie Lane is shown on the PPS as an unimproved 20-foot-wide right-of-way along the southern boundary of the subject site. This right-of-way is currently used as a driveway to serve single-family detached dwellings west of the subject site, and there is no nexus for requiring the applicant to build the street, in order to allow access to be taken from it. Therefore, a 34-foot access easement is shown along the western side of Parcel 2, between Moores Road and the northern end of Parcel 1. Such an easement may be permitted under Section 24-128(b)(9) of the Subdivision Regulations, which states the following:

Where direct vehicular access to an individual lot fronting on a public street should be denied due to a potentially hazardous or dangerous traffic situation, a private easement may be approved in accordance with the driveway

standards in Part 11 of Subtitle 27, in order to provide vehicular access, when deemed appropriate by the Planning Board.

The Planning Board finds that direct access to Parcel 1 would be hazardous due to the freeway classification of MD 5 and the unimproved nature of Jannie Lane, and access is, therefore, denied. The Planning Board approves the access easement in order to provide access to Parcel 1.

Based on the findings presented in this section, adequate transportation facilities will exist to serve the subdivision as required under Section 24-124.

- 11. Schools**—Pursuant to Section 24-122.02, this PPS is exempt from review for impact on school facilities because the proposal consists of nonresidential development.
- 12. Public Facilities**—In accordance with Section 24-122.01, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated December 30, 2019 (Thompson to Diaz-Campbell) and as amended by a memorandum from the Special Projects Section dated February 5, 2020 (Thompson to Diaz-Campbell), both of which are incorporated by reference herein.
- 13. Use Conversion**—The total development included in this PPS is 18,946 square feet of commercial development (including 4,946 square feet, which is existing) in the C-M 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 and reflected on the PPS, that revision of the mix of uses or any residential development shall require approval of a new PPS, prior to approval of any building permits.
- 14. Public Utility Easement (PUE)**—In accordance with Section 24-122(a), when utility easements are required by a public company, the subdivider shall 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.”

The standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. The property abuts Moores Road to the north, MD 5 to the east, and Jannie Lane to the south. The 10-foot-wide PUE is provided along all the abutting rights-of-way. However, along the MD 5 frontage, the PUE is to be set back approximately 30 feet from the right-of-way, behind an existing Washington Suburban Sanitary Commission (WSSC) easement covering the property along MD 5. The applicant requested a variation from Section 24-122(a), for the location of this PUE.

Variation—Section 24-113 requires that the following criteria are met. The criteria are in **BOLD** text below while staff findings for each criterion are in plain text.

(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 Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

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

The alternative location of the PUE along MD 5 will continue to provide utility service to the west of the existing 30-foot-wide WSSC easement. The intent of the PUE requirement is met with the proposed alternate location. The alternative location of the PUE will not result in any reduction of utility service availability to other property or to the proposed commercial/retail development. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property. The location of the proposed PUE is also consistent with the location depicted on prior approved DSP-15012.

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

The condition on which this variation is based is unique to the property because of the existing 30-foot-wide WSSC easement. The existing WSSC easement cannot be changed or altered due to the fact that it has been in existence since 1969 and is currently being utilized by WSSC. This creates a condition unique to this property. The variation, by locating the 10-foot-wide PUE to the west of the existing 30-foot-wide WSSC easement, enables the proposed commercial/retail to have utilities available despite the existence of the WSSC easement. Otherwise, and given the same, actual design limitations exist because of the inability of collocating the PUE over the existing WSSC easement. As a result, strict application of the regulation would be deleterious to the overall developability of the subject property.

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

The variation from Section 24-122(a) is unique to, and under the sole authority of the Planning Board. The approval of this variation request will not constitute a violation of other applicable laws. This PPS and this variation request for the location of PUEs was referred to WSSC, Verizon, Southern Maryland Electric Cooperative, Washington Gas, Comcast, and AT&T. Responses regarding the variation request were not received. However, the proposed utilities will be designed in direct coordination with the individual utility companies, in order to meet all requisite requirements and design standards at the permitting stage.

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

Due to the particular physical surroundings, with the existing WSSC easement encumbering the first 30 feet of the property frontage along MD 5, the denial of this variation request would result in a hardship to the property owner. As indicated previously, given the existing conditions are unique to the property, due to the inability of collocating the PUE over the existing WSSC easement, a hardship exists if the strict letter of these regulations is carried out.

(5) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily 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.

This subpart is not applicable because the site is zoned C-M.

The Planning Board finds that the site is unique to the surrounding properties, and the variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which is to guide development according to Plan 2035 and the sector plan.

Therefore, the variation from Section 24-122(a) for the location of the PUE along MD 5 is approved.

- 15. Historic**—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. The subject property does not contain, and is not adjacent to, any Prince George’s County historic sites or resources. This proposal will not impact any County historic sites, historic resources, or known archeological sites.
- 16. Environmental**—The following applications and associated plans for the subject site applicable to this case were reviewed:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
DSP-15012	TCP2-022-15	District Council	Approved	5/2/2016	16-06
DDS-632	N/A	Planning Board	Approved	1/14/2016	16-07
DSP-15012-01	N/A	Planning Director	Approved	11/9/2016	N/A
4-18026	TCP1-014-2019	Planning Board	Approved	2/6/2020	20-21

The subject property was reviewed as 7401 Moores Road. An approved and signed Natural Resources Inventory NRI-141-15, for this project area was issued on September 17, 2015. No other previous environmental reviews have occurred on this site.

Grandfathering

This project is not grandfathered with respect to the environmental regulations contained in Subtitles 24 and 27 that came into effect on September 1, 2010 because the application is for a new PPS. This project is subject to the WCO and the Environmental Technical Manual.

Site Description

The subject property is located on the southwest corner of MD 5 and Moores Road in Brandywine. The site is relatively flat sloping to the south and contains 1.84 acres of woodlands. The site is located within the Piscataway Creek watershed, which drains into the Potomac River. The predominant soils found to occur according to the United States Department of Agriculture Natural Resources Conservation Services Web Soil Survey are Beltsville-Urban land complex, Downer-Hammonton complex, Grosstown gravelly silt loam, and Sassafras-Urban land complex. According to available information, Marlboro clay or Christiana complex are not identified on the property. According to the Sensitive Species Project Review Area map prepared by the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this property. There are no floodplains, streams, or wetlands associated with the site. No forest interior dwelling species (FIDS) or FIDS buffer are mapped on-site. The site has frontage on both Moores Road and MD-5. MD-5 is identified as a master-planned freeway roadway, which is a traffic noise generator; however, due to the proposed commercial use, traffic generated noise is not regulated in relation to the subject application. Moores Road and MD-5 are not identified as historic or scenic roadways. The site is located within the Environmental Strategy Area 2 (formerly the Developing Tier) of

the Regulated Environmental Protection Areas Map as designated by Plan 2035. According to the *Countywide Green Infrastructure Plan* (Green Infrastructure Plan) of the 2017 *Approved Prince George's County Resource Conservation Plan*, the site contains evaluation areas in the southern portion of the site.

Review of Previously Approved Conditions

The following text addresses previously approved environmental conditions that need to be addressed with this application. The text in **BOLD** is the actual text from the previous cases or plans. The plain text provides the comments on the plan's conformance with the conditions.

DSP-15012 was approved by the District Council on May 2, 2016. The conditions of approval can be found in the Council's Final Decision.

2. **Prior to the signature of the TCP2 for this site, the liber and folio of the recorded woodland conservation easement shall be added to the standard Type 2 Tree Conservation Plan notes on the plan as follows:**

"Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George's County Land Records at Liber ____ Folio____. Revisions to this TCP2 may require a revision to the recorded easement."

This condition was met at the time of the DSP certification; however, the current application includes removal of the remaining woodland from the site. Prior to certification of the Type 2 tree conservation plan (TCP2), the easement shall be vacated for any woodland conservation that will no longer be preserved on this site.

Plan Prince George's 2035 Approved General Plan Conformance

The site is located within the Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035 and the Established Communities area of the General Plan Growth Policy Map.

Subregion 5 Master Plan Conformance

The site is located within the Subregion 5 Master Plan and SMA. In the Approved Master Plan and Sectional Map Amendment, the section on Environment contains eight sections (A-H), each of which contain policies and strategies.

The following sections and their associated policies 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.

Subregion 5 Master Plan and Sectional Map Amendment Section V: Environment

A. Green Infrastructure

- **Implement the master plan's desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.**
- **Ensure the new development incorporates open space, environmental sensitive design, and mitigation activities.**
- **Protect, preserve and enhance the identified green infrastructure network.**

The project does not contain regulated environmental features but does contain woodland areas and elements of the Green Infrastructure Plan. The site is required to provide infiltration according to the approved SWM concept letter. Open space requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) are addressed in the Urban Design section of this technical staff report. Conformance with the Green Infrastructure Plan is discussed further in this finding.

B. Water Quality, Stormwater Management, and Groundwater

- **Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.**
- **Protect and restore groundwater recharge areas such as wetlands and the headwater areas of streams.**

This PPS is for the construction of a retail pad site and a gas station facility. The SWM design will be reviewed and approved by DPIE, to address surface water runoff issues in accordance with Subtitle 32 Water Quality Resources and Grading Code. This requires that the environmental site design be implemented to the maximum extent practicable. The site has two approved SWM Concept Plans and Letters (40535-2015-00 and 48737-2018-00), which were submitted with the subject application. The gas station site (40535-2015-00) includes two lined submerged gravel wetlands systems and is required to pay \$15,520.00 for on-site attenuation/quality control measures. The retail site (48737-2018-00) is a graded pad site with drainage swales to convey stormwater and no fee is required. DPIE is requiring a revised SWM concept approval when design plans are engineered for the retail site.

Conformance with the Countywide Green Infrastructure Plan

According to the Green Infrastructure Plan, only the southern portion of the site is within the evaluation area within the designated network of the plan and contains woodlands. Impacts are included within the evaluation area for the retail and commercial development.

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

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

The site is partially wooded, and the evaluation area is located in the southern portion of the site where woodlands still exist. No rare, threatened, or endangered species are mapped within the project area. The site is zoned commercial. Any development adjacent to the existing residential dwellings to the west should retain existing woodland to serve as a landscape and screening buffer, if feasible.

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

As discussed in previously in this finding, the site has an approved SWM concept plan which addresses surface water runoff issues in accordance with Subtitle 32 Water Quality Resources and Grading Code. The site contains no regulated environmental features.

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

The 2002 General Plan has been superseded by Plan 2035. The property is subject to the WCO. The overall site contains a total of 1.84 acres of net tract woodlands with no regulated environmental features on-site. The current proposal is to clear all on-site woodlands. Any development adjacent to the existing residential dwellings to the west should retain existing woodland to serve as a landscape buffer, if feasible.

Environmental Review

Natural Resources Inventory/Existing Conditions

NRI-141-15 was approved and submitted with the review package, which was approved on September 17, 2015. The NRI verifies that no regulated environmental features are on-site that require protection under Section 24-130(b)(5) of the Subdivision Regulations. There

are 1.84 acres of woodland located in the southern portion of the site. No revisions are required for conformance to the NRI.

Woodland Conservation

The site is subject to the provisions of the WCO because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. A TCP1 has been submitted showing the proposed development of the site.

This application includes the clearing of the 1.84 acres of on-site woodlands with no off-site clearing. There is no limit of disturbance symbol shown on the plan. This application has a woodland conservation requirement of 1.77 acres, which is being met with 1.77 acres of off-site woodland conservation. Minor revisions are required of the TCP1.

Specimen Trees

A variance from Section 25-122(b)(1)(G) was granted with DSP-15012 for the removal of Specimen Tree (ST) 5, a 30-inch Willow Oak. The required findings of Section 25-119(d) of the WCO were adequately addressed for the removal of ST-5 with DSP-15012.

The specimen tree table on the NRI and the TCP1 lists large trees (1, 2, 3, and 6), which are not considered specimen trees. Two specimen trees are located off-site and four large trees (which do not qualify as specimen trees) are located in the wooded southern area of the site. No additional specimen trees located on-site are proposed for removal with this application. A variance request to allow the removal of trees 1, 2, 3, and 6 was originally filed with the application; however, the variance request was withdrawn once it was determined these trees were not specimen trees.

17. **Urban Design**—The development of 18,946 square feet of commercial will be subject to DSP approval for the southern parcel. Revisions to the approved DSP for the northern parcel may also be required.

Conformance with the Requirements of the Prince George's County Zoning Ordinance

Conformance with the following Zoning Ordinance regulations is required for the development at the time of DSP or permit site plan review, including but not limited to the following:

- Section 27-461(a) of the Zoning Ordinance regarding the uses allowed in the C-M Zone;
- Section 27-461(b) regarding the Table of Uses for the C-M Zone, and;
- Section 27-462 regarding regulations in the C-M Zone.

Various commercial and residential uses are permitted in the C-M Zone per Section 27-461(b); some require a DSP and others are permitted by right.

Per Section 27-448.01, each lot shall have frontage on, and direct vehicular access to, a public street, except lots for which private streets or other access rights-of-way have been authorized pursuant to Subtitle 24.

All parcels will have frontage on MD 5 or Moores Road. However, access has been denied along MD 5, so access will be provided from Moores Road. A 35-foot-wide access easement is provided along the west side of Parcel 2 to provide access to Parcel 1.

Conformance with Previous Approvals

DSP-15012 for the subject property was approved by the District Council on May 2, 2016, with three conditions. The DSP was required for the gas station and 4,946-square-foot food and beverage store, including a departure from design standards for a loading space access driveway to be located less than 50 feet from a residentially zoned property. Subsequently, the Planning Director approved a request to amend location of the entrance to the building and other minor site changes as part of DSP-15012-01 on November 9, 2019. The majority of the original conditions have been addressed through certification of the DSP. This DSP will need to be further amended to reflect the parcels approved with this PPS, and to remove Parcel 1, unless the proposed development on that parcel requires a DSP. This is required prior to final platting of the parcels, in accordance with Section 27-270 regarding order of approvals.

Conformance with the 2010 Prince George's County Landscape Manual

In accordance with Section 27-450 of the Zoning Ordinance, the development is subject to the Landscape Manual, specifically Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements. The applicant received approval for Alternative Compliance, AC-15021, from Section 4.2, Requirements for Landscape Strips along Streets and Section 4.7, Buffering Incompatible Uses with DSP-15012. Conformance with the applicable landscaping requirements will be determined at time of DSP or permit review.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, of the Tree Canopy Coverage Ordinance requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet or greater of GFA or disturbance and require a grading permit. The subject site is zoned C-M and is required to provide a minimum of 10 percent of the gross tract area to be covered by tree canopy. The subject property is 5.03 acres in size, resulting in a TCC requirement of 0.50 acre or 21,911 square feet. Compliance with this requirement will be further evaluated at the time of DSP or permit review.

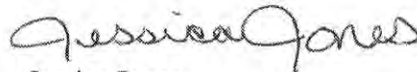
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

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 Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, Doerner and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, February 6, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of February 2020.

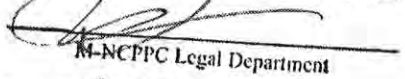
Elizabeth M. Hewlett
Chairman



By Jessica Jones
Planning Board Administrator

EMH:JJ:EC:nz

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department

Date 2-28-2020