

R E S O L U T I O N

WHEREAS, Green Century Partners is the owner of a 19.76-acre parcel of land known as Parcels 102, 103, 104, 106, 107, 108, and 146, as well as part of three lots known as Lots 1 and 2 and Lot 17, said property being in the 3rd Election District of Prince George's County, Maryland, and being zoned Residential, Multifamily-48 (RMF-48); and

WHEREAS, on May 2, 2022, MBID of Delaware, LLC filed an application for approval of a Preliminary Plan of Subdivision for five parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21010 for Marlboro Gateway 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 July 7, 2022; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1703(b) of the Subdivision Regulations, a subdivision application submitted in accordance with a conceptual site plan approved under the prior Zoning Ordinance and still valid pursuant to the time limit specified under 24-1703(b), must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the approval of the conceptual site plan; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, on July 7, 2022, 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 TCP1-011-2020-01, and APPROVED a Variance to Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-21010, including a Variation from Section 24-121(a)(3), for five parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised, as follows:

- a. Show a 10-foot-wide public utility easement along Parcel 1's frontage of US 301 (Robert Crain Highway).
 - b. Identify the ownership and recording reference of the triangle of land north of Parcel 1 and south of abutting Outparcel 1 along US 301 (Robert Crain Highway).
 - c. Remove the offset between the boundaries of Parcels 3 and 4 and the boundary of the US 301 (Robert Crain Highway) right-of-way.
 - d. Show a single access easement serving all five parcels rather than one access easement serving Parcels 1, 2, and 5 and one easement serving Parcels 3 and 4.
2. A substantial revision to the proposed uses on-site, which affects Subtitle 24 adequacy findings, shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.
 3. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan, 2715-2020-00, and any subsequent revisions.
 4. Prior to approval, the final plat of subdivision shall include:
 - a. The granting of public utility easements along the public rights-of-way.
 - b. The delineation of the access easement approved pursuant to Section 24-128(b)(9) of the prior Prince George's County Subdivision Regulations, with locations as shown on the approved detailed site plan.
 - c. Labels showing denial of access to MD 725 (Marlboro Pike) and US 301 (Robert Crain Highway), except at the single approved driveway access location on each street.
 - d. Dedication of 35 feet of public right-of-way from the centerline of MD 725 (Marlboro Pike), as shown on the approved preliminary plan of subdivision.
 - e. A note reflecting the granting of a variation from Section 24-121(a)(3) of the prior Prince George's County Subdivision Regulations, for one direct access to US 301 (Robert Crain Highway).
 5. Prior to approval of a raze permit for any of the four single-family residences located at 15402, 15404, 15406, and 15408 Marlboro Pike, the structures shall be thoroughly documented on a Maryland Inventory of Historic Properties form.
 6. Because of the significance of the archaeological findings at the Phase I level, the applicant shall provide interpretive signage. The location and wording of the signage shall be provided at the time of detailed site plan and shall be subject to approval by the staff archeologist. The

installation of the signage and the implementation of public outreach measures shall occur prior to issuance of the final building permit for the development.

7. In accordance with Section 24-135(b) of the prior Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees, shall allocate appropriate and developable areas for, and provide, adequate on-site recreational facilities.
8. The on-site 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 proper siting, in accordance with the Parks and Recreation Facilities Guidelines, with the review of the detailed site plan (DSP). Triggers for construction shall be determined at the time of DSP.
9. Prior to submission of the final plat of subdivision for any residential parcel, the applicant and the applicant's heirs, successors, and/or assignees shall submit three original executed private recreational facilities agreements (RFAs) to the Development Review Division (DRD) of the Prince George's County Planning Department, for construction of on-site recreational facilities, for approval. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records, and the Liber and folio of the RFA shall be noted on the final plat, prior to plat recordation.
10. Prior to approval of building permits for residential development, 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 construction of recreational facilities.
11. The detailed site plan shall show the position of the driveways and private access easements approved pursuant to Section 24-128(b)(9) of the prior Prince George's County Subdivision Regulations, which serve the development.
12. Prior to approval of a final plat for the development, a draft access easement or covenant over the driveway extending from US 301 (Robert Crain Highway) to MD 725 (Marlboro Pike) and serving the parcels in the subdivision shall be reviewed and approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC) and be fully executed. The easement documents shall set forth the rights, responsibilities, and liabilities of the parties and shall include the rights of M-NCPPC. The limits of the easement shall be reflected on the final plat. The easement shall be recorded in the Prince George's County Land Records, and the Liber/folio of the easement shall be indicated on the final plat, prior to recordation.
13. Total development within the subject property shall be limited to uses which generate no more than 249 AM peak hour trips and 212 PM peak hour 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.
14. Prior to issuance of each residential building permit, the applicant and the applicant's heirs, successors, and/or assignees shall pay to Prince George's County (or its designee) a fee of

- \$361.50 (in 1999 dollars) per dwelling unit for the purpose of contributing to the FY 2022-2027 County Capital Improvement Project. These unit costs will be adjusted based on an inflation cost index factor to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement at the time of the issuance of each permit.
15. Prior to issuance of any commercial building permit, the applicant and the applicant's heirs, successors, and/or assignees shall pay to Prince George's County (or its designee) a fee of \$29.52 per square foot of gross floor area for nonresidential uses (in 1999 dollars), up to a maximum total fee of \$295,155.39 (in 1999 dollars) for the overall commercial development. The fee is for the purpose of contributing to the FY 2022-2027 County Capital Improvement Project. This cost will be adjusted based on an inflation cost index factor to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement at the time of the issuance of each permit.
 16. If the development is phased, the applicant shall provide a phasing plan indicating the per dwelling unit fee for each residential building and per square foot fee for nonresidential development (excluding escalation adjustment) at the time of each detailed site plan.
 17. Prior to issuance of the first building permit, the applicant and the applicant's heirs, successors, and/or assignees shall provide a signal warrant analysis for the site access and MD 725 (Marlboro Pike) intersection. If the signal is deemed warranted and approved, a signal shall be provided in accordance with the Maryland State Highway Administration standards.
 - a. If the development is phased, the applicant shall provide a phasing plan (with adequate justification), as part of future detailed site plans, to show the phasing of the aforementioned transportation improvement relative to the development of the site. The phasing plan shall also show, in support of the determination of whether the signal is warranted, when each access point to the site will be provided. A determination shall be made at the time detailed site plan as to when the access points will be provided and when the signal improvement shall have full financial assurances and have been permitted for construction through the operating agency's access permit process.
 18. Prior to the acceptance of the detailed site plan, the applicant shall provide an analysis to demonstrate that the proposed access driveway connection along MD 725 (Marlboro Pike) conforms to the Maryland State Highway Administration (SHA) access management standards. The exact details of the access connection and its conformance to SHA access management standards will be evaluated at the time of detailed site plan.
 19. Prior to the approval of the first building permit, the following transportation improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency. The details of the following facilities shall be provided as part of the detailed site plan:

- a. The applicant shall provide a shared-use path with a minimum width of 11 feet and 2 feet of clear space on either side of the pathway, consistent with the 2012 *AASHTO Guide for the Development of Bicycle Facilities* along MD 725/Marlboro Pike abutting the subject property, per the 2009 *Approved Countywide Master Plan of Transportation*.
- b. The applicant shall provide marked bike lanes along MD 725/Marlboro Pike consistent with the 2009 *Approved Countywide Master Plan of Transportation*.
- c. The applicant shall provide either a sidewalk or a shared-use path along US 301 (Robert Crain Highway) abutting the subject site.
- d. The applicant shall provide marked bike lane signage and pavement marking within the US 301 (Robert Crain Highway) shoulder abutting the subject project, as well as a R4-11/Bicycles May Use Full Lane sign on the portion of southbound US 301 after the shoulder ends.

These improvements may be modified by the operating agency with written correspondence.

20. The applicant shall provide short-term bicycle parking facilities at the proposed retail and commercial uses and long-term bicycle parking facilities for the multifamily housing units consistent with the 2012 *AASHTO Guidelines for the Development of Bicycle Facilities*. These facilities shall be shown on the detailed site plan prior to its acceptance.
21. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised as follows:
 - a. The TCP1 shall show all the stormwater structures as shown on the revised stormwater management concept plan.
 - b. Correct the TCP1 plan and Specimen Tree Table to show specimen trees ST-30 and ST-31 as being retained, not removed.
 - c. Revise the worksheet to reflect that the project is subject to the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance and not the 1991 Woodland Conservation Ordinance.
 - d. Revise Type 1 tree conservation note No. 8 to reflect that Marlboro Pike is a historic roadway.
 - e. Revise Type 1 tree conservation note No.9 to reflect that Robert Crain Highway is an arterial roadway.
 - f. Add the following note below the specimen tree table:

“This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on [ADD DATE] for the removal of specimen trees ST-6, 7, 8, 9, 16, 17, 18, 19, 20, 33, 42, 43, 44, 46, 47, 48, and 49.”

- g. Have the plans signed and dated by the qualified professional who prepared them.
22. Development of this subdivision shall be in conformance with an approved Type 1 tree conservation plan (TCP1-011-2020-01). The following note shall be placed on the final plat of subdivision:
- “This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-011-2020-011) [or most recent revision], or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved tree conservation plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”
23. Prior to the issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the final plat of subdivision:
- “This plat is subject to the recordation of a woodland conservation easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 Tree Conservation Plan, when approved.”
24. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area, except for any approved impacts, and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:
- “Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
25. Prior to the issuance of any permits, which impact 100-year floodplain, wetlands, wetland buffers, streams, or waters of the United States, the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
26. Prior to the acceptance of the detailed site plan, the revised stormwater management concept plan shall be approved and included in the acceptance package.

27. Prior to approval of building and/or occupancy permits, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that the premises will be solely occupied by elderly persons for 90 of the multifamily housing units, unless the overall unit count is respectively reduced.
28. Prior to acceptance of a detailed site plan for the residential development, the applicant shall submit a noise study either demonstrating all outdoor recreation areas will not be exposed to noise levels above 65 dBA Ldn or recommending noise mitigation measures to reduce noise levels to below 65 dBA Ldn. The noise study shall also recommend noise mitigation measures to reduce interior noise levels to below 45 dBA Ldn for all residential buildings exposed to noise levels above 65 dBA Ldn.
29. Prior to approval of a building permit for any residential building identified on the detailed site plan as being exposed to noise levels above 65 DBA Ldn, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permit stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA Ldn or less.

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 site is located northwest of the intersection of US 301 (Robert Crain Highway) and MD 725 (Marlboro Pike). The site consists of seven acreage parcels known as Parcels 102, 103, 104, 106, 107, 108, and 146, as well as part of three lots known as Lots 1 and 2 and Lot 17 (previously recorded in Plat Book LIB A at page 123), which are recorded in Liber 40122 folio 396 of the Prince George's County Land Records. The 19.76-acre property is in the Residential, Multifamily-48 (RMF-48) Zone. However, this preliminary plan of subdivision (PPS) was reviewed according to the prior Mixed Use-Transportation Oriented (M-X-T) zoning standards for the subject property, pursuant to the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, as required in accordance with Section 24-1703(b) of the Subdivision Regulations. The site is subject to the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (master plan). The site is currently improved with four single-family detached dwellings and their accessory structures, which are to be razed.

This PPS allows subdivision of the property into five parcels for development of 150 multifamily dwelling units and 10,000 square feet of commercial development. During the Subdivision and Development Review Committee (SDRC) meeting, the applicant stated that all the multifamily units would be affordable housing units, and that out of that total, 90 units would also be senior housing units. Of the five parcels, Parcels 1, 2, and 5 are to be used for residential multifamily development, while Parcels 3 and 4 are to be used for commercial development. The PPS

identifies the commercial development as consisting of two 5,000-square-foot fast food restaurants (eating or drinking establishments), each with their own drive-through; however, this is subject to change at the time of detailed site plan (DSP) because users have not yet been identified for the commercial parcels.

The property is the subject of a previous Conceptual Site Plan, CSP-19001 (PGCPB Resolution No. 2020-128), approved in July 2020. There are no previous PPS applications that apply to the site. A PPS is required to construct multiple dwelling units and more than 5,000 square feet of nonresidential gross floor area.

The applicant filed a request for a variation from Section 24-121(a)(3) of the prior Subdivision Regulations, to allow a shared direct access from Parcels 3 and 4 to US 301, which is an arterial roadway abutting the site. This request is discussed further in the Site Access and Layout finding of this resolution.

The applicant also filed a request for a variance to Section 25-122(b)(1)(G) of the Prince George's County Code, for the removal of 17 specimen trees. This request is discussed further in the Environmental finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 93 in Grids A-4 and B-4 and is within Planning Area 79. North of the project site are the approved Townes at Peerless mixed-use project (PPS 4-18004) and existing single-family detached homes. Like the subject property, these properties to the north are in the RMF-48 Zone and formerly in the M-X-T Zone. The site is bound to the east by US 301, with a single-family detached home and an industrial use beyond, in the Agriculture Residential and the Commercial Service Zones, respectively (formerly in the Residential-Agricultural and Commercial Miscellaneous Zones). The site is bound to the south by MD 725, with various commercial uses in the Industrial Employment (formerly in the Light Industrial) Zone beyond. Southeast of the site between the site boundary and the intersection of US 301 and MD 725 are a single-family detached dwelling, a food or beverage store, and a gas station, all in the RMF-48 Zone (formerly in the M-X-T Zone). To the west of the site are single-family detached homes and a pond, which are also in the RMF-48 Zone and formerly in the M-X-T Zone. Part of the pond extends onto the subject site.
4. **Development Data Summary**—The following information relates to the subject PPS and approved development.

	EXISTING	APPROVED
Zones	RMF-48	RMF-48 (reviewed per M-X-T standards)
Use(s)	Single-family residential	Multifamily residential, commercial
Acreage	19.76	19.76
Parcels	7	5
Lots	3	0
Dwelling Units	4	150
Variance	No	Yes (Section 25-122(b)(1)(G))
Variation	No	Yes (Section 24-121(a)(3))

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the SDRC meeting on May 13, 2022. Along with the PPS, the requested variation from Section 24-121(a)(3) was accepted on May 2, 2022, and also heard at the SDRC meeting on May 13, 2022, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Previous Approvals**—The subject property was rezoned to the M-X-T Zone as part of Change Number 4 of the sectional map amendment of the 2013 master plan (Prince George’s County Council Resolution CR-83-2013).

The site is subject to CSP-19001 (PGCPB Resolution No 2020-128), which was approved by the Prince George’s County Planning Board on July 23, 2020. The Prince George’s County District Council elected not to review the CSP. The CSP covers 20.98 acres and approved 100 to 265 multifamily dwelling units, 1,200 to 75,000 square feet of commercial gross floor area, and 5,000 to 30,000 square feet of office gross floor area. The development in this PPS falls within the approved ranges and utilizes 19.76 acres of the 20.98 acres included in the CSP. Parcel 101, an existing acreage parcel between the site and the intersection of US 301 and MD 725, was included in the CSP, but is not included in this PPS.

CSP-19001 was approved subject to five conditions, of which the following are relevant to the review of this PPS:

1. **Prior to certificate approval of the conceptual site plan, the following revisions shall be made, or information shall be provided:**
 - d. **Show conceptual pedestrian access arrows crossing MD 725 (Marlboro Pike) at the conceptual entrance of the proposed development, and between all pods on the site and adjacent properties along MD 725 (Marlboro Pike), subject to the final locations and design at the time of DSP and subject to applicable permitting agency approval.**
 - e. **Provide conceptual pedestrian access along both sides of the internal driveways and roads, and between the buildings and the parking lots on the subject site.**

The DSP for this project should show the conceptual pedestrian improvements described by the above conditions. The Type 1 tree conservation plan (TCP1) submitted with this PPS shows that sidewalks are proposed on both sides of the internal driveways, and between the buildings and the parking lots, for the residential development only. The plans do not show any pedestrian crossing of MD 725 at the southern site entrance. At the time of DSP, when the positions of the internal driveways, parking lots, and buildings are known, the DSP will be evaluated to determine if the conceptual pedestrian access shown on the CSP can be provided.

2. Prior to acceptance of the preliminary plan of subdivision for this site, the applicant shall:

a. Submit an approved stormwater management concept plan and approval letter.

This project has an approved stormwater management (SWM) concept plan and approval letter (2715-2020), which was approved on July 30, 2020. However, the project layout has changed, and so a revision to the SWM concept plan that matches the revised layout shown on TCP1-011-2020-01 will be required with the acceptance of the DSP. The applicant provided a draft update to the SWM concept plan with the PPS submission.

b. Submit a geotechnical report for review and approval by the Prince George's County Department of Permitting, Inspections and Enforcement to confirm the elevation of the Marlboro clay and determine the slope stability factor.

A geotechnical report was submitted with this PPS and was reviewed by the Commission's geotechnical expert. The geotechnical planner was satisfied with the information provided regarding the elevation of the Marlboro clay and the slope stability factor.

The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) reviewed a geotechnical report for the project alongside the approved SWM concept plan discussed above, and upon approval of that plan there were no outstanding geotechnical issues. Any updated comments would be provided with their review of the updated SWM concept plan.

c. Revise the Type 1 tree conservation plan to include the limits of the Marlboro clay and the 1.5 factor of safety line, if any, as determined by an approved evaluation by the Prince George's County Department of Permitting, Inspections and Enforcement.

DPIE stated by email (Labban to Diaz-Campbell dated June 16, 2022, incorporated by reference herein) that the Maryland-National Capital Park and Planning Commission (M-NCPPC) should perform any evaluation of the 1.5 factor of safety line. The revised TCP1 shows the mitigated 1.5 factor of safety line as determined by an approved evaluation by the M-NCPPC's geotechnical expert. This evaluation serves to meet the purpose of this condition.

- d. Submit an approved Phase I archeology report, in accordance with the Prince George's County Planning Board's Guidelines for Archeological Review (May 2005), on the above-referenced property to determine if any cultural resources are present.**

A Phase I archeology survey was conducted, and the report was completed in June of 2020. The report was submitted with the subject PPS. Further discussion is contained in the Historic Preservation finding of this resolution.

- e. Consider relocating the eastern access driveway to MD 725 (Marlboro Pike) to the west, beyond the termination of the merge lane.**

This issue was discussed with the applicant, and they agreed to some relocation to the west in order to move the entrance away from the boundary of abutting Parcel 101, pending agreement by the Maryland State Highway Administration (SHA). The final position of the entrance will be subject to SHA approval and will need to meet SHA's access management standards. Further discussion is contained in the Site Access and Layout finding of this resolution.

- 4. Prior to the approval of any building permits within the subject property, unless modified at the time of preliminary plan of subdivision, pursuant to Section 27-546(d)(9) of the Prince George's County Zoning Ordinance, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:**

US 301 at MD 725 intersection

- a. Provide three through lanes, a double left-turn lane, and a right turn lane, at the northbound approach.**
- b. Provide four through lanes, a left-turn lane, and a right-turn lane, at the southbound approach.**
- c. Provide two through lanes, a right turn, and a left-turn lane, at the westbound approach.**

- d. **Provide two left-turn lanes, a shared left-through lane, and a right-turn lane, at the eastbound approach.**

All the improvements in this condition are incorporated in the County's FY 2022-2027 Capital Improvement Project (CIP) for road improvements along sections of US 301. There is a provision in the CIP where any applicant can use these CIP-funded improvements to offset traffic impacts by paying a pro-rata share contribution of the overall cost. The applicant has agreed to pay into this CIP fund, and consequently, providing these improvements is no longer necessary for this applicant.

6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) is evaluated, and conformance with the master plan is evaluated, as follows:

Plan 2035

This PPS is located within the Established Communities policy area. Plan 2035 describes Established Communities as areas appropriate for context-sensitive infill and low- to-medium-density development and recommends maintaining and enhancing existing public services, facilities, and infrastructure to ensure that the needs of residents are met (page 20).

Master Plan

The master plan recommends mixed-use future land use on the subject property. The property is identified as "Development Bay 5" in the Living Areas and Community Character Chapter, which recommends the following policy and strategies:

- **Policy: Promote high-quality development and redevelopment around the Town of Upper Marlboro at the intersection of US 301 and MD 725 (page 205).**
 - **Strategy 2: Incorporate a mix of development opportunities including different types of housing that complement and support the Town of Upper Marlboro in the M-X-T zone (page 206).**
 - **Strategy 4: Develop a secondary road network to provide access to development bays west of US 301 and minimize traffic impacts to US 301/MD 725 intersection (page 206).**

Map 25 shows the development framework for the area, which includes five development bays, or areas. "These bays represent the most appropriate areas for development outside of known environmentally sensitive areas and floodplains" (page 202).

The master plan includes this description of Development Bay 5: "This bay is located directly behind (to the north and west) of the existing Dunkin Donuts store. As an adjunct to that property, its proximity to US 301 and the gateway US 301/MD 725 intersection, this parcel would best be served by extending the existing commercial development into it. Preliminary studies suggest that two outparcels appropriate for restaurants (one adjacent to US 301 and the other to MD 725)

could be developed with an interior retail building of approximately 26,000 square feet” (page 203).

The PPS conforms to the relevant policy discussed above and follows the related strategies as appropriate. The project includes a mix of development opportunities in the M-X-T Zone, as well as different types of housing including affordable and senior housing units. Though no new public roads are included in the plan, a system of connected driveways between two access points is included, which will allow continuous travel between the residential and commercial uses and between MD 725 and US 301 and act as a secondary road network. The driveways, compared to public streets which would occupy more space, will ensure there is enough space to develop the site given that much of it is covered by regulated environmental features. The two access points will reduce residents and visitors’ reliance on the US 301/MD 725 intersection because the whole site can be accessed from either entrance. These factors will allow the PPS to promote high-quality development near the intersection because they lay the groundwork for an interconnected mixed-use development with a range of development opportunities.

Based on the foregoing, pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this PPS conforms to the land use recommendations of the master plan.

7. **Stormwater Management**—An application for a major subdivision must include an approved SWM concept plan, or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. An approved SWM concept letter and plan (2715-2020) were submitted with the PPS application; however, since the approval of the concept, the project layout has changed. A copy of an unapproved SWM concept plan showing the revised layout was also submitted. The revised SWM concept plan shows the use of nine micro-bioretenion facilities and two underground storage facilities to meet the current requirements of environmental site design to the maximum extent practicable. The SWM concept plan shall be approved prior to acceptance of the DSP.

Development of the site, in conformance with the SWM concept approval and any subsequent revisions, ensuring that no on-site or downstream flooding occurs, satisfies the requirements of Section 24-130 of the Subdivision Regulations.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the previously approved CSP-19001, the requirements and recommendations of the master plan, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space* (Formula 2040), and the Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreation and facilities. The 2017 *Land Preservation, Parks and Recreation Plan for Prince George’s County* was also evaluated for this PPS.

The subject property is not adjacent to any M-NCPPC parkland and is located in Park Service Area 6. The subject property is located in between two community centers: Patuxent Community Center (approximately three miles to the northeast) and Upper Marlboro Community Center (approximately 1 mile southwest). Developed parks in proximity include Beechtree West Park, which contains a football/soccer field and a small parking lot; and Marlboro Meadows Park,

which includes a playground, two tennis courts, a full basketball court, two softball fields, and a football/soccer field. The property is also located approximately one mile from School House Pond; and 1.5 miles from Sasscer Park, which contains a lighted track and football field, two softball fields, a lighted baseball field and a multipurpose football/soccer field.

The 2009 *Approved Countywide Master Plan of Transportation* (MPOT) calls for a planned side path along MD 725 at the southern boundary of the property. This side path will connect with a planned side path along the Collington Branch Stream Valley Park heading toward the Balmoral and Beechtree communities. The side path will also connect with a planned bike route along MD 725 leading toward the Town of Upper Marlboro and a planned side path along the Western Branch. The trails will help connect the subject property with local parks.

The master plan indicates that there is currently an excess of regional parkland due largely to the Patuxent River Park area, Rosaryville State Park, and the other stream valley parks (Charles Branch, Collington Branch, Western Branch). However, the master plan indicates that local parkland should still be pursued. The 2022 *Land Preservation, Parks and Recreation Plan* (LPPRP) notes that Park Service Area 6 meets the Prince George's County Department of Parks and Recreation's (DPR) guidelines for adequate parkland. The data from the LPPRP shows that there are 79.8 acres of parkland per 1,000 persons, which is more than double DPR's guideline (contained in Formula 2040) of 35 acres of parkland per 1,000 persons.

Per Section 24-134(a)(1) of the Subdivision Regulations, development of a residential subdivision with the current density shown by the PPS, on the subject property, would require 2.64 acres of land to meet the mandatory dedication of parkland requirement. On a conceptual basis, the applicant has indicated there will be on-site recreational facilities provided with the development of this property, such as: a fitness center, community rooms, a tot lot and walking paths, benches, and bicycle racks. Per Section 24-135 of the Subdivision Regulations, the Planning Board may approve on-site recreational facilities, in lieu of Parkland dedication. The applicant's proposal of on-site recreational facilities is appropriate for this development, due to the proximity of nearby public parks and the unsuitability of the land on the subject property for dedication.

Future residents will be best served by the provision of on-site recreation facilities, and the facilities will meet the requirements of mandatory parkland dedication. The PPS is in conformance with the applicable master plans and the requirements of Subtitle 24, as they pertain to parks and recreation facilities.

9. **Transportation**—This PPS was reviewed for conformance with the MPOT, the master plan, and the Subdivision Regulations to provide the appropriate transportation recommendations.

Master Plan Conformance

Master Plan Roads

The subject property is governed by the approved master plan as well as the MPOT. This development fronts on the following master plan roads:

MD 725, an ultimate 2-4-lane primary road (P-608) that is currently built with two lanes within a variable width right-of-way. The master plan recommends a widening of MD 725 to up to four lanes, in the vicinity of the development, within 70 feet of right-of-way. As a condition of approval, dedication of 35 feet shall be provided from the centerline of MD 725.

US 301 (A-61) is a four-lane existing arterial road built within the existing variable width right-of-way. The master plan recommendation is for this road to be converted to a service road, running parallel to the planned F-10 freeway further to the east. No additional right-of-way will be required for either A-61 or F-10.

Master Plan Pedestrian and Bike Facilities

The MPOT includes the following goal and policies regarding sidewalk and bikeway construction and the accommodation of pedestrians and bicyclists (MPOT, pages 7 and 8):

Goal: Provide a continuous network of sidewalks, bikeways and trails that provide opportunities for residents to make some trips by walking or bicycling, particularly to mass transit, schools, employment centers, and other activity centers.

Policy 2: Provide adequate pedestrian and bicycle linkages to schools, parks, recreation areas and employment centers.

Policy 3: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

Policy 4: Identify sidewalk retrofit opportunities for small area plans within the Developed and Developing Tiers to provide safe routes to school, pedestrian access to mass transit and more walkable communities.

Policy 5: Plan new development to help achieve the goals of this master plan.

In light of these policies, the following improvements are required, to ensure conformance:

- The applicant shall provide short-term bicycle parking facilities at the proposed retail and commercial uses, and long-term bicycle parking facilities for the affordable senior multifamily housing units, consistent with the 2012 *AASHTO Guidelines for the Development of Bicycle Facilities*.
- The applicant shall provide a shared-use path with a minimum width of 11 feet and 2 feet of clear space on either side of the pathway, consistent with the 2012 *AASHTO Guide for the Development of Bicycle Facilities* along MD 725/Marlboro Pike abutting the subject property, per the MPOT.
- The applicant shall provide marked bike lanes along MD 725/Marlboro Pike, consistent with the MPOT.

- The applicant shall provide either a sidewalk or a shared-use path along US 301 abutting the subject site.
- The applicant shall provide marked bike lane signage and pavement marking within the US 301 shoulder abutting the subject project, as well as a R4-11/Bicycles May Use Full Lane sign on the portion of southbound US 301 after the shoulder ends.

The master plan provides the following supportive language regarding these recommendations:

- **Within the Developing Tier, roadways must include safe accommodations for bicyclists and pedestrians. Continuous sidewalks are necessary to provide safe access to schools and parks, link communities with commercial areas, and achieve the goal of providing “walkable” communities (page 105).**
- **Policy 8: Promote and encourage cycling and walking as an alternative to the car for commuting and recreational purposes (page 107).**
- **Strategies**
 1. **Incorporate bicycle-compatible road improvements with future frontage improvements or road construction projects (page 107).**

The improvements listed above will address the relevant bicycle and pedestrian policies of the MPOT and the master plan.

Analysis of Bicycle and Pedestrian Impacts

This development is not located within any established center or corridor. Therefore, it is not subject to Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines – Part 2”.

Traffic Evaluation

The development is projected to generate greater than 50 new trips in either peak hour, consequently, a traffic impact study was provided. The findings outlined below are based upon the review and analysis of materials, consistent with the “Transportation Review Guidelines – Part 1” (Guidelines).

Analysis of Traffic Impacts

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:

Links and Signalized Intersections: Level-of-Service D, with signalized intersections operating at a critical lane volume of 1,450 or less. Per Section 24-124(a)(6) of the Subdivision Regulations, mitigation is permitted at signalized intersections within any transportation service area, 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:

For two-way stop-controlled intersections a three-part process is employed: (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 critical lane volume is computed.

For all-way stop-controlled intersections a two-part process is employed: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the critical lane volume is computed.

The table below shows the intersections deemed to be critical, as well as the levels of service representing existing conditions.

EXISTING CONDITIONS		
Intersections	AM	PM
	(Level-of-Service / critical lane volume)	(Level-of-Service / critical lane volume)
MD 202 & MD 725	A/578	A/918
US 301 & MD 725	A/983	E/1473

The traffic impact study identified the following developments as part of the background analysis:

- Balmoral/Buck Property (15 single-family detached units remaining)
- Towns at Peerless (24 townhouse units and 38 multifamily units)
- 4400 Largo Road (15 single-family detached units)
- Forest Hills (116 single-family detached units)
- 301 Upper Marlboro (99,720-square-foot warehouse)

Using the trip rates from the *Trip Generation Manual, 10th edition* (Institute of Transportation Engineers), the study has indicated that the subject PPS represents the following trip generation:

Proposed uses	Units	AM Peak			PM Peak		
		In	Out	Total	In	Out	Total
Garden Apartments (County)	60	6	25	31	23	13	36
Senior Adult Housing (County)	90	5	7	12	9	5	14
Fast Food Rest - Drive Thru ITE-934	10k sq. ft.	206	196	402	170	156	328
<i>Pass-by 49% AM, 50% PM</i>		-100	-96	-196	-86	-78	-164
Net Primary – Fast Food		106	100	206	84	78	162
TOTAL NEW TRIPS (Trip Cap)		117	132	249	116	98	212

The table above indicates that the development will be adding 249 AM, and 212 PM new peak trips. The trip cap threshold is based on the total development on site to include the existing and proposed densities. A second analysis depicting total traffic conditions was done, yielding the following results:

TOTAL CONDITIONS		
Intersections	AM	PM
	(Level-of-Service / critical lane volume)	(Level-of-Service / critical lane volume)
MD 202 & MD 725	A/653	B/1005
US 301 & MD 725	B/1084	E/1569
<i>With CIP Imp.</i>	A/893	C/1261
MD 725 & Site Access *		
Tier 1: HCS Delay test	39.7 seconds	247.9 seconds
Tier 2: Minor Street Volume	-	>100 vehicles
Tier 3: critical lane volume	-	C/1194
US 301 & Site Access *	17.1 seconds	27.7 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 critical lane volume 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 critical lane volume is computed. If the critical lane volume falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition. However, if the critical lane volume is 1151 or greater, a traffic signal warrant study must be done.		

The results under total traffic conditions show that all signalized intersections will operate adequately. The intersection of US 301 and MD 725 will operate adequately, but only with the inclusion of improvements funded under the FY 2022-2027 CIP. The unsignalized site access on MD 725 failed the three-step test for unsignalized intersection adequacy. Consequently, a traffic signal warrant analysis will be required, pursuant to the Guidelines. If the development is phased,

a phasing plan shall be provided with each DSP, in order to determine whether the traffic signal is warranted at the time of the phase shown on that DSP. The phasing plan will also need to show when each of the two access points will be provided (in the current or in a future phase), in order to support the determination of whether the traffic signal is warranted at the time of the current phase.

The traffic impact study was referred out to SHA and DPIE. As of the approval of the PPS, neither agency had provided any feedback.

The traffic impact study concluded that the intersection of US 301 and MD 725 will operate adequately under total traffic conditions based on the implementation of the County's CIP. This finding was predicated on the applicant's reliance on developer-funded improvements along US 301, as outlined in the CIP. The following represents the methodology that was used in the traffic impact study to calculate the applicant's pro-rata share of the CIP cost:

- Length of US 301 in scoped study area = 0.76 miles
- Length of US 301 in CIP covered area = 5.8 miles (MD 214 to MD 725)
- Proportion of scoped study area to CIP area = $0.76/5.8 = 13.1$ percent
- Cost of CIP = \$24,780,000
- Proportional cost of CIP within traffic impact study scope = $(13.1 \text{ percent} \times \$24.78\text{m}) = \$3,247,034.00$
- Average (AM+PM) reserve capacity created by CIP improvements – 418 critical lane volume
- Average reserve capacity used by the proposed development – 45 (approximately 10.76 percent)
- Proportion of cost to be borne by applicant = $0.1076 \times \$3,247,034.00 =$
\$349,380.86
- Average reserve capacity used by the **residential** development – 7 (approximately 1.67 percent)
- Average reserve capacity used by the **commercial** development – 38 (approximately 9.09 percent)
- Proportional cost for residential = $0.0167 \times \$3,247,034 = \$54,225.47$
- Proportional cost for commercial = $0.0909 \times \$3,247,034 = \$295,155.39$

- Pro-rated fee per residential unit = $\$54,225.47/150 = \361.50
- Pro-rated fee per nonresidential square foot = $\$295,155.39/10,000 = \29.52

Based on the above calculations, the applicant shall, prior to issuance of each residential building permit, pay to the County a fee of \$361.50 (in 1999 dollars) per dwelling unit, in order to contribute to the CIP improvements relied upon by this development. The applicant shall also, prior to issuance of any commercial building permit, pay to the County a fee of \$29.52 (in 1999 dollars) per square foot of gross floor area for nonresidential uses, up to a maximum total fee of \$295,155.39 (in 1999 dollars). These costs will be adjusted based on an inflation cost index factor to be determined by DPIE at the time of issuance of each permit. If the development is phased, the applicant should provide a phasing plan indicating the per dwelling unit fee for each residential building and per square foot fee for nonresidential development (excluding escalation adjustment) at the time of each DSP.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, in accordance with Subtitle 24.

10. **Site Access and Layout**—The subdivision has three parcels (Parcels 1, 2, and 5) for residential multifamily development and two parcels (Parcels 3 and 4) for commercial development. Access to the residential parcels is shown via one full-movement shared access driveway to MD 725, covered by a private access easement. Access to the commercial parcels is shown via one right-in/right-out shared access driveway to US 301, also covered by a private access easement. The two driveways (and easements) meet at the border of Parcel 5 with Parcels 3 and 4, which should allow movement of traffic between the residential and commercial parts of the site. Because commercial users for Parcels 3 and 4 are not yet known, the precise route of the driveway and access easement serving Parcels 3 and 4 between the site access and Parcel 5 may need to be adjusted at the time of the DSP(s) for the commercial parcels.

Despite the connected driveways, the easements may not allow residents of Parcels 1, 2, and 5 passage over the commercial parcels to US 301; or allow visitors of Parcels 3 and 4 passage over the residential parcels to MD 725; if each easement exclusively serves its own half of the site. To ensure connectivity and circulation throughout the site, rather than two easements, there shall be only one (which may be of variable width) which serves all five parcels, extending from US 301 to MD 725.

Section 24-128 of the Subdivision Regulations generally requires that all parcels proposed to be developed have both frontage on and direct access to a public street. All five parcels on this PPS do have frontage on a public street, but Parcels 1 and 2 lack direct access, relying on the driveway on Parcel 5. Parcels 3 and 4 also rely on a single shared driveway. Therefore, provisions for private access must be made pursuant to Section 24-128(b) of the Subdivision Regulations.

The applicant proposed private access easements, pursuant to Section 24-128(b)(9) of the Subdivision Regulations, which provides that 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.

Based on the site layout, the applicant's use of an access easement, in accordance with Section 24-128(b)(9), is appropriate. US 301 is an arterial roadway with large, fast moving traffic volumes, and therefore, it is appropriate to limit Parcels 3 and 4 to one shared driveway access in order to reduce access locations onto the arterial roadway. MD 725, while only a primary road, already features three closely spaced commercial driveway access locations across from the subject property. Rather than add three more access driveways from Parcels 1, 2, and 5, it would be appropriate to limit the residential development to one driveway access, in order to limit conflicts between vehicles accessing the residential development and vehicles accessing the commercial development across the street.

The finding above notwithstanding, the single access driveway onto MD 725 may not conform to SHA access management requirements given the offsets and distance to the adjacent driveways along MD 725. The applicant provided via email and associated exhibit (Forman to Diaz-Campbell dated June 17, 2022, incorporated by reference herein) that the driveway would have to shift some distance to the west in order to meet Code of Maryland standards for minimum distances between property lines and driveways, due to the proximity of abutting Parcel 101 to the driveway. However, it was unclear if this change would address SHA's access management standards. As a condition of approval, the applicant shall provide an analysis, at the time of DSP, demonstrating conformance to SHA's access management standards. SHA will have final approval authority over the access onto MD 725; however, because the DSP is the permit plan for the development, the DSP will also need to show the final position of the access driveway.

Variation

While the easement on Parcels 3 and 4 is appropriate under Section 24-128(b)(9), the access driveway itself does not conform to the requirements of Section 24-121(a)(3). This section requires that when lots are proposed on land adjacent to an existing or planned roadway of arterial or higher classification, they shall be designed to front on either an interior street or a service road. The PPS does not include an interior street nor a service road, and Parcels 3 and 4 are instead designed to front on and take access from US 301. To allow the proposed configuration, the applicant has requested a variation from Section 24-121(a)(3) and submitted a statement of justification (SOJ) in support of the variation.

Section 24-113 of the Subdivision Regulations requires that the following criteria be met for the Planning Board to approve a variation. The criteria are in **bold** text below, while 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.**

Without a right-in/right-out access point onto US 301, all access to the commercial parcels will need to be via MD 725, and commercial traffic from US 301 will need to utilize the US 301/MD 725 intersection and MD 725 before reaching the site access. The proposed access point will reduce congestion on US 301 and MD 725 and the intersection shared by those two roadways; thereby, improving their safety. In addition, the design of the proposed US 301 access point will be required to be consistent with all SHA regulations and design standards. Following these standards will ensure the access point provides safe ingress and egress to the development. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property.

- (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 property is unique in that while it has frontage on two public roads, there is existing development at the street corner (on Parcels 101 and 69) that limits direct access to the eastern portion of the property from MD 725. Any access to the eastern part of the property from MD 725 would have to be routed around this existing development. The PPS and TCP1 show that it is possible to do this, but only by routing the access through the residential portion of the development, which may make access to and visibility of the commercial development more difficult, limiting its potential success. The property is also unique in that the master plan has specific recommendations, which affect development of the subject site; specifically, a strategy to “develop a secondary road network to provide access to development bays west of US 301 and minimize traffic impacts to US 301/MD 725 intersection” (page 206). While the two proposed connected driveways meet the intent of this strategy (see the Community Planning finding of this resolution), having access to the site only from MD 725 would not meet it, and would not reduce traffic impacts to the US 301/MD 725 intersection. For the foregoing reasons, the conditions on which the variation is based are unique to the property for which the variation is sought and are generally not applicable to other properties.

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

There are no known applicable laws, ordinances, or regulations that will be violated if this variation is granted. As previously stated, the applicant has provided that the design of the access point onto US 301 will be consistent with all SHA regulations and design standards.

(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.

The property has a unique shape based on the presence of surrounding development at the US 301/MD 725 intersection, and as previously discussed this gives rise to the need for the variation. The property also has topographic conditions which have placed most of the land area in the primary management area (PMA), limiting the developable area of the site. Under the strict letter of Section 24-121(a)(3), the applicant could provide a public street connecting between MD 725 and US 301 instead of the two connected driveways, which would remove the need for the variation. However, based on the larger land area a public street would need, compared to the driveways, and the limited developable land area that would be served by this public street, it would be a particular hardship to the owner to require the site be served in this manner. Alternatively, requiring all access to the property to be from MD 725 alone would be a hardship to the owner because doing so would limit the visibility and potential success of the commercial development, and substantially increase the traffic burden on the remaining access point in a location where there are already several other access points to other properties.

(5) In the R-30, R-30C, R-18, R-18C, R-IOA, 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 criterion is not applicable because the property is not in any of the above listed zones under the current or prior Zoning Ordinance.

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, but instead will result in a better outcome than could be achieved through strict compliance with the Subdivision Regulations. Therefore, the variation to

allow Parcels 3 and 4 to front on and take access from US 301, using one shared access driveway, is approved.

11. **Schools**—This PPS was reviewed for impact on school facilities in accordance with Section 24-122.02 of the prior Subdivision Regulations, and in accordance with CR-23-2001 and CR-38-2002, *Amended Adequate Public Facilities Regulations for Schools*. Per Section 24-122.02(a)(2) of the Subdivision Regulations, the subdivision is considered adequate when the future student enrollment does not exceed 105 percent of the state rated capacity. The subject property is located within Cluster 4, as identified in the *Pupil Yield Factors and Public-School Clusters 2020 Update*.

This project includes a total of 150 multifamily units and the applicant has indicated that, out of that total, 90 units will be senior adult housing units. Per Section 24-122.02(b)(2) of the Subdivision Regulations, “a subdivision for elderly housing operated in accordance with State and Federal Fair Housing law” shall be exempt from the adequacy of school facilities test in Section 24-122.02(a) of the Subdivision Regulations. Therefore, only the 60 remaining apartment units were used in the school facilities test. The results of the school facilities test are as follows:

Impact on Affected Public School Clusters by Dwelling Units

	Affected School Cluster		
	Elementary School Cluster 4	Middle School Cluster 4	High School Cluster 4
Multifamily (MF) Dwelling Units	60 DU	60 DU	60 DU
Pupil Yield Factor (PYF) – Multifamily (MF)	0.119	0.070	0.081
MF x PYF = Future Subdivision Enrollment	7	4	5
Adjusted Student Enrollment 9/30/19	12,730	10,182	7,914
Total Future Student Enrollment	12,737	10,186	7,919
State Rated Capacity	17,095	10,737	8,829
Percent Capacity	75%	95%	90%

Per Section 24-114.01, School Planning Capacity Analysis, of the Subdivision Regulations, this adequacy analysis was completed for planning purposes to assess the need for new or expanded school facilities; it is not a condition of approval for a subdivision. A new PPS and new adequacy analysis will be required if fewer than 90 of the units are to be used for elderly housing, unless the overall unit count is also reduced, respectively.

Section 10-192.01 of the Prince George's County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$10,180 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia; \$10,180 per dwelling if the building is included within a basic plan or CSP that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$17,451 per dwelling for all other buildings. This project is located outside the Capital Beltway; thus, the surcharge fee is \$17,451 per dwelling unit.

Per Section 10-192.01(b)(2) "The school facilities surcharge does not apply to a mixed retirement development or elderly housing." Therefore, the school facilities surcharge does not apply to the 90 senior adult housing units, however the surcharge does apply to the remaining 60 multifamily dwelling units. The fee is to be paid to DPIE at the time of issuance of each building permit.

The PPS is found to conform to the sector plan recommendations for schools, as discussed in the Public Facilities finding below.

12. **Public Facilities**—In accordance with Section 24-122.01 of the Subdivision Regulations, 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 May 11, 2022 (Perry to Diaz-Campbell), incorporated by reference herein.

This PPS was reviewed for conformance to the master plan in accordance with Section 24-121(a)(5). The master plan provides goals and policies related to public facilities (pages 119–144), including goals to "Provide residents of Subregion 6 needed public facilities in locations that serve existing and future populations" and "Maintain the high level of service by providing essential equipment and professional training for personnel." However, the subject property is not identified as a location on which public facilities are to be provided, nor is it affected by any schools, libraries, police, fire and rescue, parks and recreation, solid waste management/recycling, or water and sewer service strategies, as provided and/or located in the master plan. The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities; this plan does not contain any recommendations which affect the subject property.

13. **Use Conversion**—The total development included in this PPS is for 150 multifamily dwellings, including 90 senior housing units, and 10,000 square feet of commercial development in the former M-X-T Zone. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings (including a change to the number of senior housing units that affects the school planning capacity analysis), as set forth in the resolution of approval and reflected on the PPS, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.

14. **Public Utility Easement**—In accordance with Section 24-122(a) of the Subdivision Regulations, 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 public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on the existing public rights-of-way of MD 725 to the south and US 301 to the east. The PPS shows PUEs along the entire frontages of these rights-of-way, except for Parcel 1’s frontage on US 301. Prior to certification of the PPS, the plan shall be corrected to include a PUE in this area.

15. **Historic**—A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicated the probability of archeological sites within the subject property was high. The subject property was once part of the Compton Bassett or Woodland plantation. This plantation was established on the Patuxent River by the Hill family in 1699, and remained in the family until the Compton Bassett Historic Site (79-063-10) was purchased by M-NCPPC in 2010. A Phase I archeology survey was conducted, and the report was completed in June of 2020. No further archeological investigations are required.

Because of the significance of the findings at the Phase I level, the applicant shall provide interpretive signage. The location and wording of the signage shall be provided, at the time of DSP, and shall be subject to approval by the staff archeologist. Installation of the signage and implementation of public outreach measures shall occur, prior to issuance of the final building permit for the development.

The subject property also contains four single-family residences situated on the north side of MD 725. The PPS shows that all the existing structures on the subject property are to be demolished. These twentieth century houses were part of an African American community that settled in the area shortly after the Civil War. Background historic research should attempt to establish which families built and occupied these structures. Prior to demolition of these four residences, the structures shall be thoroughly documented on a Maryland Inventory of Historic Properties form.

The master plan includes goals and policies related to historic preservation (pages 161 through 174). However, these are not specific to the subject site or applicable to this development.

16. **Environmental**—The subject PPS was received on May 2, 2022. Environmental comments were provided in an SDRC meeting on May 13, 2022. Revised information was received on May 27, 2022.

The following applications and associated plans for the subject site applicable to this case were previously reviewed:

Review Case Number	Associated Tree Conservation Plan Number	Authority	Status	Action Date	Resolution Number
NRI-093-2018	N/A	Staff	Approved	8/3/2018	N/A
CSP-19001	TCP1-011-2020	Planning Board	Approved	7/23/2020	2020-128
4-21010	TCP1-011-2020-01	Planning Board	Pending	Pending	Pending

Grandfathering

The project is subject to the environmental regulations contained in prior Subtitles 24 and 27, and Subtitle 25 that came into effect on September 1, 2010, because it is a new PPS.

Site Description

A review of the available information indicates that regulated environmental features, such as 100-year floodplain, a stream and its buffer, and wetlands with associated buffers, are present on-site. A large on-site swale is currently shown as an ephemeral stream system. According to the Sensitive Species Project Review Area map received from the Maryland Department of Natural Resources Natural Heritage Program and used on PGAtlas, there are rare, threatened, or endangered species found to occur on or near this property; however, during the natural resources inventory (NRI) review process, a letter from the Maryland Department of Natural Resources Wildlife and Heritage Service stated that there are no known rare, threatened, or endangered species found to occur on or near this property. There is a long flat area located in the eastern portion of the site that falls to the north and south into two large stream valleys. These two valleys empty out to a large wetland and floodplain system associated with Collington Branch to the west. The portion of the site located along MD 725 contains a ridgeline which drains to MD 725 on one southeast side and to the wetland and floodplain system mentioned above on the northwest. This site is in the Collington Branch sub-watershed that flows into the Western Branch watershed, located within the Patuxent River basin. The site has frontage on US 301, which is identified as a master plan arterial roadway, and MD 725, which is identified as a primary collector roadway. MD 725 is also identified as an historic roadway. The site is located within the Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map, as designated by Plan 2035. According to the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan), the majority of the project area, except for several small areas along MD 725, is identified as either regulated or evaluation areas.

Master and Functional Plan Conformance

Master Plan

The following policies and strategies from the master plan are relevant to environmental review. The text in **bold** is from the master plan and the plain text provides comments on plan conformance.

Policy 1: Protect, preserve, and restore the identified green infrastructure network and areas of local significance within Subregion 6 in order to protect critical resources and to guide development and mitigation activities.

Strategies:

- 1. Protect priority areas that will meet multiple protection objectives such as those related to green infrastructure, the priority preservation area, and the Patuxent River Rural Legacy Program.**
- 2. Protect primary corridors (Patuxent River, Charles Branch, Collington Branch, Piscataway Creek, Mattawoman Creek, and Swanson Creek) during the review of land development proposals to ensure the highest level of preservation and restoration possible, with limited impacts for essential development elements. Protect secondary corridors to restore and enhance environmental features, habitat, and important connections.**
- 3. Preserve and connect habitat areas to the fullest extent possible during the land development process.**
- 4. Preserve or restore regulated areas designated in the green infrastructure network through the development review process for new land development proposals.**
- 5. Protect portions of the green infrastructure network outside the primary and secondary corridors to restore and enhance environmental features, habitat, and important connections.**
- 6. Evaluate land development proposals in the vicinity of SCAs to ensure that the SCAs are not negatively impacted and that green infrastructure connections are either maintained or restored.**

The development site is not located in a special conservation area, but is near a primary corridor, Collington Branch, and contains regulated and evaluation areas designated in the Green Infrastructure Plan. There are no impacts to the wetlands or areas located in the floodplain.

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

Strategies:

- 1. Protect and restore groundwater recharge areas such as wetlands and the headwaters areas of streams and watersheds.**
- 3. Require retrofitting of locations without stormwater management or with poorly performing facilities as they are identified during the development review process.**

4. **Define and identify operations and activities that create stormwater management “hotspots” to adjust development and enforcement as necessary for pollution prevention.**
5. **Require private developers to perform stream corridor assessments where one has not already been conducted when development along stream corridors without completed assessments is proposed. Use the outcome of these assessments to guide restoration requirements upon which development approval will be contingent.**
7. **Require environmentally sensitive site design which includes limiting impervious surfaces and implementing best practices in on-site stormwater management to reduce the impact of development on important water resources.**

Wetlands and wetland buffers on-site will be protected to the fullest extent possible during local review of development projects, and by state and federal review and permitting authorities. The site is a new/re-development and will comply with the state environmental site design (ESD) requirements in the design and review of SWM facilities for the site.

Policy 4: Protect, restore, and enhance the Chesapeake Bay Critical Area.

Strategies:

1. **Ensure that the primary buffers and secondary buffers are protected and enforced to the fullest extent possible.**
2. **Increase enforcement activities as needed within the critical area.**

The subject project is not located within the Chesapeake Bay Critical Area.

Conformance with the Green Infrastructure Plan

According to the Green Infrastructure Plan, there are regulated and evaluation areas on the subject site. Approximately 60 percent of the site is located in the regulated area, due to the presence of open water, wetland, and floodplain on the western portion of the site, and an intermittent stream along the northern portion of the site. Approximately 30 percent of the site is located in the evaluation area, with the remainder of the site outside of the green infrastructure. The conceptual design, as reflected on the PPS and the TCP1, meets the goals of the Green Infrastructure Plan and focuses development outside of the most sensitive areas of the site.

Environmental Review

Natural Resources Inventory

NRI-093-2018 was approved on August 3, 2018 and provided with the PPS. The site contains 100-year floodplain, a stream, wetlands, and their associated buffers, which comprise the PMA. A long stream system is located in a large valley formation in the southern portion of the site. This stream has been shown as ephemeral on the NRI and TCP1, and therefore, is not considered a

regulated environmental feature. The on-site floodplain area is associated with Collington Branch to the west. There are 49 specimen trees scattered throughout the site. The approved NRI also includes Parcel 101, which is not part of the PPS. The TCP1 and the PPS show all the required information correctly in conformance with the NRI.

Woodland Conservation

This site is subject to the provisions of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the application is for a new PPS. The project is also subject to the Environmental Technical Manual (ETM).

TCP1-011-2020-01 has been submitted with the PPS and requires minor revisions, to be found in conformance with the WCO.

Based on the TCP1 submitted with the PPS, the site's gross area is 19.76 acres, contains 10.95 acres of woodland in the net tract, 3.68 acres of wooded floodplain, and has a woodland conservation threshold of 1.74 acres (15 percent). The woodland conservation worksheet shows the removal of 6.31 acres in the net tract area, for a woodland conservation requirement of 3.32 acres. According to the worksheet, the requirement is to be met with 3.48 acres of woodland preservation and 0.05 acre of reforestation on-site. The forest stand delineation has identified 49 specimen trees on-site and one specimen tree on the adjacent Parcel 101. This PPS includes the removal of 17 specimen trees which is further detailed below.

Technical revisions to the TCP1 are required, as conditioned in this approval.

Soils

The predominant soils found to occur on-site according to the United States Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey are Adelphia-Holmdel complex, Collington-Wist complex, Collington-Wist-Urban land complex, Marr-Dodon complex, Udorthents-Urban land complex and Widewater-Issue soils. Christiana clays do not occur on or in the vicinity of this site, but Marlboro clay has been identified throughout the eastern half of the project area.

Marlboro clay is known to be an unstable, problematic geologic formation. The presence of this formation raises concerns about slope stability and the potential for constructing buildings on unsafe land. A geotechnical report was required for the subject property to evaluate the areas of the site that are unsuitable for development without mitigation.

A geotechnical report dated October 20, 2021, and revised on March 18, 2022, was submitted with this PPS. The Commission's geotechnical expert has reviewed the document and has found that the information provided meets the County's requirements for the proposed development. Based on the information in the report, the 1.5 factor of safety line was added to the TCP1 and verified by the geotechnical expert to be correct.

Specimen, Champion, or Historic Trees

Tree conservation plans are required to meet all the requirements of Subtitle 25, Division 2, which includes the preservation of specimen trees in accordance with Section 25-122(b)(1)(G). Every effort should be made to preserve the trees in place, considering the different species' ability to withstand construction disturbance (refer to the Construction Tolerance Chart in the ETM for guidance on each species' ability to tolerate root zone disturbances).

If, after careful consideration has been given to the preservation of the specimen trees, there remains a need to remove any of the specimen trees, a variance to Section 25-122(b)(1)(G) is required. Applicants can request a variance to the provisions of Division 2 of Subtitle 25 (the WCO), provided all the required findings in Section 25-119(d) of the WCO can be met. An application for a variance must be accompanied by a letter of justification stating the reasons for the request and how the request meets each of the required findings. A Subtitle 25 variance application and a letter of justification in support of a variance, dated May 18, 2022, were submitted.

The approved NRI identifies a total of 50 specimen trees; one tree is considered off-site with 49 on-site. The following analysis is the review of the request to remove 17 specimen trees located on-site.

The SOJ requests the removal of 17 of the existing 49 specimen trees located on-site. Specifically, the applicant seeks to remove specimen trees ST-6, 7, 8, 9, 16, 17, 18, 19, 20, 33, 42, 43, 44, 46, 47,48, and 49. The TCP1 shows the location of the trees proposed for removal. These specimen trees are proposed for removal for the development of the buildings and associated infrastructure. Grading near specimen trees ST-16, 17, 18, and 19 will impact approximately 50 percent of the critical root zone. The area of these four trees will be replanted upon final grading of the site. The plan and Specimen Tree Table on the TCP1 show specimen trees ST-30 and ST-31 to be removed; however, these trees are outside of the development envelope and are not included in the SOJ for removal. A condition to correct the TCP1 is provided in the conditions of approval.

**Specimen Tree Schedule Summary
 For 17 Trees Proposed for Removal on TCP1-011-2020-01**

No.	Common Name	Scientific Name	DBH (Inches)	Condition Rating
ST-6	Tulip Tree	<i>Liriodendron tulipifera</i>	44	Good
ST-7	Tulip Tree	<i>Liriodendron tulipifera</i>	33	Fair
ST-8	Southern Red Oak	<i>Quercus falcata</i>	44	Poor
ST-9	American Sycamore	<i>Platanus occidentalis</i>	30	Fair
ST-16	White Oak	<i>Quercus alba</i>	38	Fair
ST-17	White Oak	<i>Quercus alba</i>	32	Poor
ST-18	Tulip Tree	<i>Liriodendron tulipifera</i>	32	Fair
ST-19	White Oak	<i>Quercus alba</i>	41	Fair
ST-20	Red Oak	<i>Quercus rubra</i>	32	Poor
ST-33	American Sycamore	<i>Platanus occidentalis</i>	32	Poor
ST-42	Southern Red Oak	<i>Quercus falcata</i>	36	Fair
ST-43	Southern Red Oak	<i>Quercus falcata</i>	44	Good
ST-44	Southern Red Oak	<i>Quercus falcata</i>	46	Poor
ST-46	American Sycamore	<i>Platanus occidentalis</i>	34	Fair
ST-47	American Sycamore	<i>Platanus occidentalis</i>	39	Good
ST-48	American Sycamore	<i>Platanus occidentalis</i>	44	Fair
ST-49	Southern Red Oak	<i>Quercus falcata</i>	44	Poor

Removal of the 17 specimen trees requested by the applicant is approved, based on the findings below.

(A) Special conditions peculiar to the property have caused the unwarranted hardship

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain specimen trees ST-6, 7, 8, 9, 16, 17, 18, 19, 20, 33, 42, 43, 44, 46, 47, 48, and 49. Three of the trees are in good condition, eight are in fair condition, and six are in poor condition. Those “special conditions” relate to the specimen trees themselves, such as their size, condition, species, and on-site location.

The property is 19.76 acres and contains approximately 12.10 acres of PMA, comprised of open water, streams, wetlands, floodplain, and associated buffers, steep slopes, as well as the unsafe soil Marlboro clay, which all together take up a significant portion of the property and limit the developable areas of the site. These existing conditions are peculiar to the property.

The proposed use, multifamily dwelling units and retail, is a significant and reasonable use for the subject site, and it cannot be accomplished elsewhere on the site without additional variances. Development cannot occur on the portions of the site containing PMA, which limits the site area available for development. Requiring the applicant to retain the 17 specimen trees on the site would further limit the area of the site available for development, to the extent that it would cause the applicant an unwarranted hardship.

(B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas. All variance applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the ETM for site specific conditions. Specimen trees grow to such a large size because they have been left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all somewhat unique for each site.

Based on the location and species of the specimen trees proposed for removal, retaining the trees and avoiding disturbance to the critical root zone would have a considerable impact on the development potential of the property. If similar trees were encountered on other sites, they would be evaluated under the same criteria.

(C) Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants

Not granting the variance would prevent the project from being developed in a functional and efficient manner. This is not a special privilege that would be denied other applicants. If other properties contained regulated environmental features, Marlboro clay, and specimen trees in a similar condition and location on a site, the same considerations would be provided during the review of the required variance application. This is not a special privilege that would be denied other applicants.

(D) The request is not based on conditions or circumstances which are the result of actions by the applicant

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The removal of the 17 specimen trees would be the result of the grading required for the development to achieve optimal development for the multifamily site. The request to remove the trees is solely based on the trees' locations on the site, their species, and their condition.

(E) The request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property

There are no existing conditions on the neighboring properties or existing building uses that have any impact on the location or size of the specimen trees. The trees have grown to specimen tree size under natural conditions and have not been impacted by any neighboring land or building uses.

(F) Granting of the variance will not adversely affect water quality

The project is subject to SWM regulations, as implemented locally by DPIE. The project is subject to ESD to the maximum extent practicable. Erosion and sediment control requirements are reviewed and approved by the Prince George's Soil Conservation District. SWM, erosion, and sediment control requirements are to be met in conformance with state and local laws to ensure that the quality of water leaving the site meets the state standards. State standards are set to ensure that no degradation occurs. The removal of 17 specimen trees will not directly affect water quality.

The required findings of Section 25-119(d) have been adequately addressed for the removal of specimen trees ST-6, 7, 8, 9, 16, 17, 18, 19, 20, 33, 42, 43, 44, 46, 47, 48, and 49. The requested variance for the removal of 17 specimen trees is approved for construction of a new multifamily development and associated grading and SWM.

Preservation of Regulated Environmental Features

This site contains regulated environmental features that are required to be preserved and/or restored to the fullest extent possible, under Section 24-130(b)(5) of the Subdivision Regulations. The on-site regulated environmental features include open water, streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, and associated steep slopes.

Section 24-130(b)(5) states:

“Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.”

Impacts to regulated environmental features should be limited to those that are necessary for 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 SWM 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. SWM 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, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for development of a property should be the fewest necessary and sufficient to reasonably develop the site, in conformance with the County Code.

Statement of Justification

An SOJ was received May 27, 2022, for the proposed impacts. The letter is dated May 18, 2022.

The PPS includes impacts to the PMA. The current SOJ and associated exhibit reflect two impacts to regulated environmental features associated with the development, totaling approximately 0.11 acre. One impact will be a permanent impact and the second impact will be a temporary impact.

Analysis of Impacts

Impact 1 – Stormwater outfall: This permanent impact is for a stormwater outfall. The total impact to the PMA will be approximately 0.06-acre. The stormwater outfall meets best management practices for discharging water back into the stream while limiting erosion at the discharge points. The stormwater outfall is required by County Code.

Impact 2 -Grading/removal of impacted specimen trees: This temporary impact is for grading and the removal of specimen trees ST-16, 17, 18, and 19, whose critical roots will be damaged/removed by the installation of a multifamily dwelling unit. The total impact to the PMA is approximately 0.05-acre. Upon the completion of final grading in this area, trees will be replanted.

After evaluation of the applicant's SOJ for impacts to regulated environmental features, the impacts are approved. The PMA impacts are considered necessary to the orderly development of the subject property and surrounding infrastructure. These impacts cannot be avoided because they are required by other provisions of the County and state codes. The TCP1 shows the preservation and enhancement of the PMA to the fullest extent practicable.

Based on the level of design information available at the present time, 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 TCP1.

Based on the foregoing findings, the PPS conforms to the relevant environmental policies of the master plan and Green Infrastructure Plan, and the relevant environmental requirements of Subtitles 24 and 25.

17. **Urban Design**—The development project will be subject to DSP review.

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

The subdivision will be required to demonstrate conformance with the applicable requirements of the Zoning Ordinance, at the time of DSP review, including but not limited to the following:

- a. Sections 27-544, 27-546, and 27-548 requirements for the M-X-T Zone, as applicable;
- b. Part 11 Off-Street Parking and Loading; and
- c. Part 12 Signs.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require building and grading permits and propose 5,000 square feet or greater of gross floor area or disturbance. Properties in the M-X-T Zone are required to provide a minimum of ten percent of the gross tract area, to be covered by tree canopy. In this case, the applicant is required to provide a minimum of 1.976 acres in TCC. Conformance with this requirement will be evaluated at the time of DSP.

Conformance with the Requirements of the Prince George’s County Landscape Manual

Pursuant to Section 27-124.03 of the Zoning Ordinance, the development is subject to the 2010 *Prince George’s County Landscape Manual*. Specifically, the site is subject to 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; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets. Conformance with these requirements will be evaluated at the time of DSP.

18. **Town of Upper Marlboro**—The Town of Upper Marlboro submitted a letter dated June 17, 2022 (incorporated by reference herein) indicating their general support for the project. The letter stated that the Town officials had concerns about traffic, public safety, tree conservation, and affordable housing unit percentages, but that they had a chance to speak with the project representatives about their concerns. The letter did not recommend any conditions of approval. The letter also specified that the property was expected to be annexed into the Town, though no timeframe was given for this annexation.
19. **Noise**—The site abuts US 301, an arterial roadway, which may be a significant noise generator. The commercial development lies between US 301 and the residential development. However, the PPS shows that the unmitigated 65 dBA Ldn line lies 373 feet from the centerline of US 301,

putting it on residential Parcel 5. The PPS also shows that there is a proposed outdoor recreation area close to the unmitigated 65 dBA Ldn line. Therefore, at the time of DSP, the applicant shall submit a noise study to determine the noise impacts of US 301 upon Parcel 5. The noise study shall demonstrate that all outdoor recreation areas will be exposed to noise levels no greater than 65 dBA Ldn, or that if any outdoor recreation areas are exposed to noise levels greater than 65 dBA Ldn, that the noise will be mitigated to be below 65 dBA Ldn through the site design.

If any residential buildings are exposed to noise levels greater than 65 dBA Ldn, the noise study shall demonstrate that noise levels interior to the buildings will be mitigated to be no greater than 45 dBA Ldn and shall explain any architectural materials or building techniques needed to accomplish the interior mitigation. The building permits for those buildings shall also include a certification by a professional engineer with competency in acoustical analysis stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA Ldn or less, prior to the permits' approval.

20. **Planning Board Hearing of July 7, 2022**—At the Planning Board meeting on July 7, 2022, one member of the public voiced concerns over whether this site was appropriate for residential development and expressed a desire to see more commercial development in the area. This same member of the public also asked how many people were expected to live in the residential portion of the development.

The applicant responded to the question by saying that they do not yet have an estimate of how many people will live in the development, as they have yet to determine the mix of unit types. All that is known at the time of this PPS is that 90 of the units will be reserved for senior housing. The applicant also noted that this PPS does include commercial uses, although a timeframe for development of the commercial portion has yet to be determined.

This resolution notes that the PPS was reviewed according to the standards of the M-X-T Zone. Pursuant to Section 27-547(d) of the Zoning Ordinance, the M-X-T Zone requires at least two use categories to be provided. The applicant's proposal to provide residential and commercial uses meets the requirements of this section. In addition, the policies and recommendations of the master plan applicable to this site support mixed-use development, as discussed in the Community Planning finding. The applicant's proposal to use the site for residential and commercial development is therefore found to be appropriate.

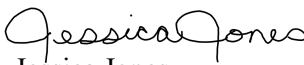
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

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, Bailey, and Shapiro voting in favor of the motion, and with Commissioner Doerner absent at its regular meeting held on Thursday, July 7, 2022, in Upper Marlboro, Maryland.

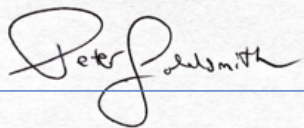
Adopted by the Prince George's County Planning Board this 28th day of July 2022.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:EDC:jah

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department
Date: July 22, 2022