



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 15-92

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco

File No. 4-13039

RESOLUTION

WHEREAS, 2300 Queens Chapel, LLC/Avondale Overlook, LP, is the owner of a 6.38-acre parcel of land known as Tax Map 49 in Grid D-1, and is known as Lot 1A – Avondale Overlook at Queens Chapel, said property being in the 17th Election District of Prince George's County, Maryland, and being zoned Multifamily High Density Residential (R-10); and

WHEREAS, on June 8, 2015, 2300 Queens Chapel, LLC/Avondale Overlook, LP filed an application for approval of a Preliminary Plan of Subdivision for the creation of 71 dwelling unit lots and 5 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-13039 for Avondale Overlook 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 September 10, 2015, for its review and action in accordance with the Land Use Article of the Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on September 10, 2015, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan (TCP1-061-03-01), and further APPROVED Preliminary Plan of Subdivision 4-13039, Avondale Overlook, including Variations from Sections 24-121(a)(4) and 24-128(b)(12), and a Variance from Section 25-122(b)(1)(G), for 71 dwelling unit lots and 5 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised to make the following technical corrections:
 - a. Remove all public utility easements (PUEs), except for the ten-foot-wide PUE along Queens Chapel Road (MD 500), from the PPS plan and add the following note: "A variation to Section 24-128(b)(12) of the Subdivision Regulations has been granted by the Planning Board. See DSP-05114-02 for the PUE layout to be reflected on final plats prior to approval."
 - b. Revise the PPS in accordance with the Parcel/Lot Exhibit submitted to staff on August 26, 2015.

- c. Remove "RTE" from the label for MD 500.
 - d. Provide the lot width on all lots.
 - e. Provide the square footage of the tot lot area on the plan.
 - f. Revise DNL to Ldn for the noise contour line and all other references.
 - g. Revise General Note 4 to include the number of parcels.
 - h. Revise General Note 13 to state the following: "Mandatory dedication to be fulfilled by on-site private recreational facilities."
 - i. Include the Type 1 tree conservation plan number in General Note 16.
 - j. Remove General Notes 24, 25, 31, 32, 34, 35, and 36.
 - k. Provide a general note stating that the site is in Sustainable Growth Tier 1.
 - l. Add the digital QR approval block to the plan.
 - m. Clearly delineate the boundary of the shared access and parking easement on the plan.
 - n. Remove "fitness trail" from the tot-lot-label.
 - o. Revise the proposed development standards table to reflect minimum lot standards for interior units (lot size and lot width), minimum lot standards for end units (lot size and lot width), and maximum number of townhouses in a stick.
- 2. Development of this site shall be in conformance with Stormwater Management Concept Plan 8186-2014-00 and any subsequent revisions.
 - 3. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall grant a ten-foot-wide public utility easement (PUE) along all public streets. A ten-foot-wide PUE along either right-of-way line of all private streets shall be granted or a PUE acceptable to the applicable public utility providers, as reflected on the approved detailed site plan.
 - 4. Prior to certification of the detailed site plan (DSP), the applicant shall provide documentation of concurrence to the public utility easement (PUE) layout shown on the DSP from the applicable utility providers, or provide a PUE in conformance with Section 24-128(b)(12) of the Subdivision Regulations, and reflect that adjustment on the DSP.
 - 5. Prior to signature approval of the preliminary plan of subdivision (PPS), the Type 1 tree conservation plan (TCP1) shall be revised as follows:

- a. Revise the preservation area label on the plan to match the worksheet.
 - b. Show the unmitigated 65 dBA Ldn noise contour.
 - c. Revise the approval block to type-in the previous certification information (Robert Metzger, 11/30/06 for 4-04071).
 - d. Add the standard Development Review Division QR code approval block.
6. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-061-03-01). 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 (TCP1-061-03-01), 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.”
7. Prior to approval of building permits for Lots 63–71, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less, if a model other than the Hepburn model is proposed.
8. At the 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.”
9. The applicant and the applicant’s heirs, successors, and/or assignees shall provide private on-site recreational facilities in accordance with the *Park and Recreation Facilities Guidelines*.

10. Prior to submission of final plats, the applicant and the applicant's heirs, successors, and/or assignees shall submit three original recreational facilities agreements (RFA) to the Development Review Division (DRD) for construction of recreational facilities on-site for approval. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records and the liber/folio reflected on the final plat. The detailed site plan shall establish appropriate triggers for construction for the recreational facilities.
11. Prior to issuance of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities.
12. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association (HOA) has been established and that the common areas have been conveyed to the HOA for Phase 2 (Parcels A-E (± 4.43 acres)).
13. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association (HOA) land. Land to be conveyed shall be subject to the following:
 - a. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - b. The conveyed land shall not suffer the disposition of construction materials, soil filling, (other than the placement of fill material associated with permitted grading operations that are consistent with the permit and minimum soil class requirements), discarded plant materials, refuse, or similar waste matter.
 - c. Any disturbance of land to be conveyed to a HOA shall be in accordance with an approved detailed site plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
 - d. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to an HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division in accordance with the approved detailed site plan.
14. Total development shall be limited to uses that would generate no more than 50 AM and 57 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

15. Prior to approval of the final plat of subdivision, a draft shared vehicular access and parking easement over New Private Road A shall be approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC) and be fully executed to the benefit of the homeowners association and the owners of abutting Lot 2A. The easement documents shall set forth the shared rights, responsibilities, and liabilities of the parties. Prior to recordation of the final plat, the easement shall be recorded in Prince George's County Land Records and the liber/folio of the easement shall be indicated on the final plat and the limits of the easement reflected.
16. Approval of this preliminary plan of subdivision shall supersede Preliminary Plan of Subdivision 4-04071 for the development of the site.
17. Prior to or concurrent with approval of final plats for Lots 1-71 and Parcels A-E, a lot line adjustment shall occur between Lots 1A and 2A, in accordance with the approved detailed site plan.
18. Any nonresidential development of the subject property shall require approval of a new preliminary plan of subdivision prior to approval of any building permits.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on Tax Map 49 in Grid D-1 and is known as Lot 1A – Avondale Overlook at Queens Chapel, recorded in Plat MMB 234-49 on July 5, 2011, in the Prince George's County Land Records. The property consists of 6.38 acres of land within the Multifamily High Density Residential (R-10) Zone and is currently undeveloped. This preliminary plan of subdivision (PPS) proposes the creation of 71 dwelling unit lots and 5 parcels in accordance with Section 27-445.10, Residential Revitalization, of the Prince George's County Zoning Ordinance. Pursuant to Section 24-107(c)(3) of the Subdivision Regulations, no land shall be subdivided within the regional district in Prince George's County until the subdivider or his agent shall obtain approval of the PPS plan and final plats by the Planning Board, resulting in this application.

Previously, Preliminary Plan of Subdivision 4-04071 (PGCPB Resolution No. 04-220) and Detailed Site Plan DSP-05114 (PGCPB Resolution No. 09-81(A)) were originally approved for Lots 1 and 2 – Avondale Overlook, which were recorded in Plat PM 225-77 pursuant to the approved PPS. The lots were subsequently replatted as Lots 1A and 2A (with no change in shape or size) as a result of a plat of correction to add a conservation easement on the two resulting lots. The purpose of PPS 4-04071 was for the construction of 244 multifamily dwelling units on Lot 1A, in addition to recognizing 247 multifamily dwelling units on Lot 2A, which already existed at the time of PPS approval. The 244 multifamily dwelling units on Lot 1A were never

constructed. As previously stated, the applicant has now submitted this PPS to replace the previously approved but not constructed 244 multifamily dwelling units with 71 townhouse lots in accordance with Section 27-445.10, Residential Revitalization, of the Zoning Ordinance, which provides the following requirements in regards to residential revitalization use:

(a) Applicability.

- (1) Residential Revitalization, as defined in this Subtitle and permitted in the Table of Uses in Part 5, shall be limited to any form of existing multifamily or attached one-family dwelling units or unimproved property on which multifamily dwelling units existed on January 1, 2001, but were subsequently razed as a result of condemnation proceedings initiated by the County that are located in a Revitalization Tax Credit District.**

(b) Requirements.

- (1) Dwelling units, or property on which they formerly existed, as described in (a)(1) of this Section may be replaced by proposed multifamily, one-family, or two-family dwelling units in a Residential Revitalization project.**

The proposed use conforms to the requirements of Section 27-445.10, as further discussed.

The subject site, composed of Lot 1A, is generally rectangular in form, with a minimum width of approximately 265 feet and a maximum width of approximately 362 feet. The site fronts Queens Chapel Road (MD 500), along its southern property boundary, which is designated as a master plan arterial roadway (A-13) with an ultimate right-of-way width of 120 feet. The site contains steep slopes along the rear northern property boundary. To the east of the site is the existing multifamily building on Lot 2A, which was included in the approval of PPS 4-04071 and DSP-05114. To the west of the site are single-family dwellings. The proposed townhouse development will create a desirable transition between the higher-density multifamily building to the east and the lower-density single-family residential neighborhood to the west.

In accordance with Section 27-445.10, "Regulations concerning the height of structures, lot size and coverage, frontage, setbacks, density, bedroom percentages and other requirements of the specific zone do not apply to uses and structures in a Residential Revitalization project. The dimensions and percentages shown on the approved Detailed Site Plan shall constitute the development regulations." A DSP revision (DSP-05114-02) has been submitted by the applicant and is currently under review. All applicable development standards will be determined with the DSP, however, this PPS review was coordinated closely with the DSP to ensure that applicable lot standards (including density, minimum lot size, minimum lot width, and maximum number of townhouses in a stick) conform to the standards proposed on the DSP. The DSP proposed the following minimum lot standards, which are reflected on the PPS:

Interior Lot:

Minimum Lot Size: 1,008 square feet

Minimum Lot Width: 16 feet

End-Unit Lot:

Minimum Lot Size: 1,170 square feet

Minimum Lot Width: 18 feet

Maximum Number of Townhouses in a Stick: 8

Pursuant to Section 27-445.10, "The dwelling units, or property as described in (b)(1) above, shall have or have had a minimum density of twelve (12) units per acre of the net lot or tract area." It is noted that the minimum density provided is less than what is required. The applicant has proposed to perform a lot line adjustment through the current DSP between the subject site and adjacent Lot 2A, which will decrease the site acreage from 6.38 acres to 5.86 acres. The resulting density to the subject site will be 12.11 DUs/acre.

The PPS proposes one access to MD 500 via a private street that will extend the length of the development. The private street is proposed to form a loop within the development which will lead vehicular traffic back out to the single access at MD 500. Three mews are proposed to be situated within the development which will contain "educational" sitting areas as well as one tot lot.

The generally narrow shape of the site, as well as the steep slopes to the rear of the property, have presented several design constraints for which the applicant has requested relief. The applicant has submitted variation requests from Section 24-121(a)(4) for lot depths of less than 150 feet from MD 500 and from Section 24-128(b)(12) for alternative public utility easement layout. Both requests have been reviewed and are **APPROVED**.

3. **Setting**—The subject site is located on the north side of Queens Chapel Road (MD 500), approximately 220 feet east of Russell Avenue. To the north of the site is parkland zoned One-Family Detached Residential (R-55) owned by The Maryland-National Capital Park and Planning Commission (M-NCPPC). To the west of the site is R-55-zoned property developed with single-family dwellings. To the south of the site is R-55-zoned property developed with institutional uses and single-family dwellings. To the west of the site is R-10-zoned property developed with multifamily dwelling units.

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

	EXISTING	APPROVED
Zone	R-10	R-10
Use(s)	Vacant	Residential Revitalization
Acreage	6.38	6.38
Lots	0	71
Outlots	0	0
Parcels	1	5
Dwelling Units	0	71
Public Safety	No	No
Variance	No	No
Variation	No	Yes
		Section 24-121(a)(4)
		Section 24-128(b)(12)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on June 19, 2015. As required by Section 24-113(b) of the Subdivision Regulations, the requested variation to Section 24-121(a)(4) for lot depth was heard on July 31, 2015. Additionally, the requested variation to Section 24-128(b)(12) for an alternate public utility easement layout was heard on August 14, 2015. Both cases were heard at the scheduled SDRC meetings no less than 30 days prior to the Planning Board hearing date.

5. **Community Planning**—This site is located within the Existing Communities growth policy area of the Prince George's County Growth Policy Map in the *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) and the 1994 *Approved Master Plan and Sectional Map Amendment for Planning Area 68* (Planning Area 68 Master Plan and SMA).

The site is also located a Revitalization Tax Credit District and is being developed pursuant to Section 27-445.10 of the Zoning Ordinance for residential revitalization. Pursuant to Section 27-445.10, in approving a residential revitalization project, the Planning Board shall find that the project:

- (1) **Improves a deteriorated, obsolete, or demolished multifamily or attached one-family dwelling unit development by replacing or rehabilitating dwellings, improving structures, or renovating and improving other facilities;**

The applicant proposes to add 71 townhouses to the existing multifamily development, creating a more desirable transition of housing type from the apartment building to the east to the existing neighborhood of single-family dwellings to the west. Furthermore, new

housing which meets today's zoning standards and design goals will improve the quality of the overall housing stock in the neighborhood.

- (2) **Maintains or improves the architectural character of the buildings so that they are compatible with surrounding properties;**

Conformance to this standard will be found at the time of DSP.

- (3) **Serves a need for housing in the neighborhood or community;**

Through the construction of the proposed 71 new townhouses, the need for housing in the neighborhood or community will be served.

- (4) **Benefits project residents and property owners in the neighborhood;**

Along with the addition of home ownership opportunities, the proposed development will reconfigure the existing entrance to the site and increase available parking for the adjacent multifamily building.

- (5) **Conforms with the housing goals and priorities as described in the current "Housing and Community Development Consolidation Plan," for Prince George's County; and**

The FY 2014 Housing and Community Development Annual Action Plan lists several priorities that the proposed project conforms to. Specifically, one goal is to improve the safety and livability of neighborhoods and support employment opportunities. The proposed development will increase the safety and livability of the nearby neighborhoods by relocating the existing entrance from a location that is less safe than what is proposed and providing additional parking for existing residents. The construction of the proposed units will provide employment opportunities and increase housing opportunity in the neighborhood.

- (6) **Conforms to either specific land use recommendations or principles and guidelines for residential development within the applicable Master Plan.**

The applicable master plan for this area is the 1994 Planning Area 68 Master Plan and SMA, which recommends multifamily use for the property and retained the R-10 zoning category. Residential revitalization is a permitted use in the R-10 Zone for properties located within a Revitalization Tax Credit District and is therefore consistent with the principles and guidelines of the plan.

Planning Issues

The proposed layout shows that the townhomes on Lots 13–28 will front a retaining wall that is between the townhouses and the existing multifamily building. Furthermore, Lots 1–28 will be

separated from the multifamily building by a private street. At the time of DSP, special consideration should be given to enhancing the visual connections, in general, and the pedestrian connectivity specifically, between the proposed townhouse community and existing multifamily development to develop a more overall cohesive residential neighborhood and more attractive development. The applicant should provide an architectural elevation and detail on the site plan showing the relationship between the proposed townhouses on these lots and the retaining wall. Consideration should also be given to designing the retaining wall to be a green wall with plantings. Issues related to the connectivity of the development to the neighborhood will be further evaluated at the time of DSP.

6. **Urban Design**—The subject property was designated as one of the County's Revitalization Tax Credit Districts in 2005 (Prince George's County Council Bill CB-43-2005). The site has a previously approved Detailed Site Plan, DSP-05114 (PGCPB Resolution No. 09-81(A)), based on PPS 4-04071 (PGCPB Resolution No. 04-220) for the addition of 244 multifamily dwelling units (Lot 1A) to the existing multifamily development (Lot 2A), with associated parking and site improvements. As a result of the approval of the current PPS, a new DSP will be required to be approved prior to final plat approval. No previous conditions of approvals are applicable to the review of this PPS in regards to urban design issues. A new Detailed Site Plan (DSP-05114-02) has been submitted to the Urban Design Section and is currently under review with a tentative Planning Board hearing date of October 8, 2015.

Conformance to the Zoning Ordinance

The proposed development is subject to the requirements of Section 27-445.10, Residential Revitalization, of the Zoning Ordinance. Regulations concerning building height, lot size and coverage, frontage, setbacks, density, bedroom percentages, parking, and other requirements of the R-10 Zone do not apply. The dimensions and percentages shown on the approved DSP will constitute the development regulations for the site. Subsection (b)(5) of Section 27-445.10 also indicates that the "normal parking requirement shall be reduced by thirty percent (30%)." Parking, along with other site related features, will be evaluated at the time of DSP.

The PPS concept plan demonstrates that the applicant meets and exceeds the minimum required parking on individual lots with the required 30 percent reduction. However, to address the parking concerns of the community, the applicant is proposing parking in addition to that required along the proposed main entrance drive (New Private Road A). These parallel parking spaces will be used by both the multifamily dwelling units on Lot 2A and the townhouse units (existing Lot 1A). A shared access and parking easement is recommended over New Private Road A to the benefit of both properties to ensure that the burden for maintenance and the use of the parking spaces is shared between the townhouse homeowners association (HOA) and the owner of the multifamily apartments. It is conditioned that the easement be fully executed prior to approval of the final plat for the townhouse units, and contain the rights, responsibilities, and liabilities of the parties.

Conformance with the Prince George's County Landscape Manual

Landscaping, screening, and buffering on the subject site should be provided pursuant to the provisions of the 2010 *Prince George's County Landscape Manual* "to the extent that is

practical,” as stated in Section 27-445.10(b)(6). The proposed development is adjacent to the existing single-family detached neighborhood to the west. A Section 4.7 bufferyard is required between townhouses and single-family detached units. The PPS shows enough space to accommodate a Section 4.7 bufferyard along the western property line. The site’s conformance to other applicable landscaping requirements, including Sections 4.9 (Sustainable Landscaping Requirements) and 4.10 (Street Trees along Private Streets), to the extent practicable, will be reviewed and determined at the time of DSP.

Conformance with the Tree Canopy Coverage Ordinance

This application is also subject to the requirements of the Prince George’s County Tree Canopy Coverage Ordinance. The subject site is located within the R-10 Zone, and a minimum 15 percent of the property should be covered by tree canopy. The applicant shall show conformance to the tree canopy coverage requirements at the time of DSP.

7. **Environmental**—Although the current PPS is being reviewed for Lot 1A, the original TCP1 (TCP1-061-03) included both Lots 1A and 2A. Therefore, for the purposes of reviewing the TCP1 revision, the TCP1 plan includes both Lots 1A and 2A (the subject property as referred to in this section of the report). The subject property was previously reviewed in 1984 as a part of Special Exception SE-1353 under the name of Beach Tree Apartments and subsequently in 2003 as Preliminary Plan of Subdivision 4-03089, which was later withdrawn. Preliminary Plan 4-04071 and TCP1-061-03 were reviewed and approved for the subdivision of a 10.33-acre parcel in the R-10 Zone into two lots. The Planning Board’s conditions of approval can be found in PGCPB Resolution No. 04-220. The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 of the Prince George’s County Code which came into effect on September 1, 2010 and February 1, 2012 because the application is for a new PPS.

The site is located on the north side of Queens Chapel Road (MD 500), approximately 220 feet east of Russell Avenue. The property is zoned R-10 and totals 10.23 acres. According to mapping research and as documented on the approved natural resources inventory (NRI), steep slopes and wetland buffer is located on-site which is associated with a wetland, floodplain, and stream system located to the north of the site. The site is located within the Anacostia River drainage basin. The predominant soils found to occur, according to the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Web Soil Survey (WSS), include the Christiana-Downer, Issue-Urban land, Russett-Christiana-Urban land, Sassafras-Urban land, Sassafras and Croom, and Urban land complexes. According to available information, Marlboro clay is not found to occur on this property; however, Christiana clay complexes are mapped on-site. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this property. No forest interior dwelling species (FIDS) habitat or FIDS buffer are mapped on-site. Seven specimen trees are located on-site. The site has frontage on MD 500, which is a designated arterial roadway regulated for noise. The site does not front on any scenic or historic roadways. The site is located within the Established Communities designation of the Growth Policy Map and Environmental Strategy Area 1 (formerly the Developed Tier) of the Regulated Environmental Protection Areas Map as designated by Plan Prince George’s 2035. The

site contains regulated and network gap areas within the designated network of the 2005 *Approved Countywide Green Infrastructure Plan* (Countywide Green Infrastructure Plan).

Master Plan Conformance

The property is located within the Planning Area 68 Master Plan and SMA. The master plan does not indicate any environmental issues associated with this property. The environmental requirements for woodland preservation and stormwater management are addressed below.

Conformance with the Countywide Green Infrastructure Plan

The site contains regulated and network gap areas within the designated network of the Countywide Green Infrastructure Plan. The green infrastructure areas are located along the northern portion of the property and coincide very closely with the delineation of the primary management area (PMA) which, according to the approved NRI, contains steep slopes and wetland buffer associated with a wetland, floodplain, and stream system located to the north of the site. The regulated and evaluation areas are the focus of preservation with this application, as appropriate, to be in conformance with the Green Infrastructure Plan.

Environmental Review

An approved Natural Resources Inventory, NRI-197-13, was submitted with the application. The NRI indicates that there are steep slopes and wetland buffer located on-site which is associated with a wetland, floodplain, and stream system located to the north of the site. The wetland buffer and steep slopes comprise the PMA. The TCP1 and the PPS are in conformance with the NRI. The forest stand delineation indicates two forest stands totaling 6.28 acres and seven specimen trees located on-site. No revisions are required for conformance to the NRI.

This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property has previous TCP approvals (TCP1-061-03 and TCP2-124-06). A Type 1 Tree Conservation Plan (TCP1-061-03-01) was submitted with the application. The gross tract area of the plan is 10.23 acres; however, previous applications were approved which included dedication. Because the TCP1 was previously approved based on a larger land area, the TCP is required to be based on the original land area. The TCP1, as submitted, has appropriately been based on the gross tract area of 10.33 acres. The woodland conservation threshold is 20 percent of the net tract area, or 2.07 acres. The total woodland conservation requirement based on the amount of clearing shown on the plan is 3.25 acres. The woodland conservation requirement is proposed to be satisfied with 1.91 acres of on-site preservation, 0.09 acre of on-site reforestation, and 1.25 acres of off-site woodland conservation credits.

The plan requires technical revisions to be in conformance with the WCO. The woodland conservation worksheet, as shown on the plan, shows 1.91 acres of preservation; however, the label on the plan for this area indicates that it is 1.94 acres. This discrepancy must be addressed. The unmitigated 65 dBA Ldn noise contour must be shown on the plan in accordance with the noise report prepared by Wyle, Inc. dated April 17, 2015. The approval block must be revised to include the previous certification information typed-in (Robert Metzger, 11/30/06 for 4-04071).

The Development Review Division standard QR code approval block must be added to the plan. Under the specimen tree variance evaluation section of this report, the removal of Specimen Tree 2 for liability and hazard concerns is recommended. After all revisions have been made, have the qualified professional who prepared the plan sign and date it.

The site has frontage on MD 500, which is a designated arterial roadway regulated for noise. A noise report prepared by Wyle, Inc. dated April 17, 2015 and a second noise report dated July 15, 2015 were submitted. The April report was based on on-site measurements and on Maryland State Highway Administration (SHA) projected traffic counts and established the location of the ground level unmitigated 65 dBA Ldn noise contour. The July report demonstrates that no modifications to the standard building materials are necessary for the Hepburn townhouse model on Lots 63–71, located along MD 500. If a different model is proposed on Lots 63–71 at time of building permit, then a certification prepared by a professional engineer with competency in acoustical analysis must be submitted with the permit to demonstrate that the building materials will mitigate the interior noise to 45 dBA Ldn or less. No outdoor activity areas will be negatively impacted.

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 steep slopes and wetland buffer which are associated with a wetland, floodplain, and stream system located to the north of the site. The wetland buffer and steep slopes comprise the PMA. Impacts to regulated environmental features must first be avoided and then minimized. If impacts to the regulated environmental features are proposed, a statement of justification must be submitted in accordance with Section 24-130. The justification must address how each impact has been avoided and/or minimized. No statement of justification was submitted because no impacts to regulated environmental features have been proposed. 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 TCP submitted for review. No impacts have been proposed.

Specimen Tree Variance

Effective October 1, 2009, the State Forest Conservation Act was amended to include a requirement for a variance if a specimen, champion, or historic tree is proposed to be removed. This state requirement was incorporated in the adopted County Code effective on September 1, 2010.

Type 1 tree conservation plan applications are required to meet all of the requirements of Subtitle 25, Division 2, Section 25-122(b)(1)(G), which includes the preservation of specimen trees. 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 Environmental Technical Manual 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 from Section 25-122(b)(1)(G) is required. Applicants can request a variance from the provisions of

Division 2 of Subtitle 25, the WCO, provided all of the required findings in Section 25-119(d) 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 statement of justification in support of a variance were received by the Environmental Planning Section on August 11, 2015.

The TCP shows the proposed removal of one of the seven specimen trees and impacts to the critical root zones of two specimen trees. Tree 1 is a 33-inch diameter at breast height (DBH) Southern red oak in good condition. It is proposed to be removed because it is located within the development envelope. Although not part of the request, Specimen Trees 2 and 3 were evaluated, which are impacted by the proposed limits of disturbance. Specimen Tree 2 is a 54-inch DBH Chestnut oak in poor condition. Specimen Tree 3 is a 35-inch DBH American Beech in good condition. Trees 2 and 3 are located just outside of the PMA, which has been delineated at the top of a steep slope. The plans show a significant amount of critical root zone proposed to be impacted which could result in the rapid decline of the trees post development.

The removal of Specimen Tree 1 is supported. With appropriate root pruning, aeration and fertilization as needed, and as proposed by the applicant, the preservation of Specimen Tree 3 is supported; however, the poor condition and the amount of critical root zone proposed to be impacted for Specimen Tree 2 may warrant the removal of the tree in order to avoid a hazardous condition for the adjacent townhome lots. However, a variance has not been submitted and should be submitted at the time of DSP, or the site should be re-graded to avoid impacts to the critical root zone.

Section 25-119(d) of the WCO contains six required findings **[text in bold]** to be made before a variance can be granted. The letter of justification submitted seeks to address the required findings for the specimen trees.

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

Specimen Tree 1 is located beyond the top of the steep slopes, which delineate the limits of the PMA on this site. This is the most developable area on the site. Specimen Tree 2 is in poor condition because it has a significant cavity in the trunk and top damage, and may warrant the approval of a variance at the time of DSP which would be supported.

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

Because Specimen Tree 1 is located within the most developable area of the site, avoidance of the tree would not allow the grading of the site necessary to support reasonable development. If other constrained properties encounter trees in similar locations on a site, the same considerations would be provided during the review of the required variance application.

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

Because Specimen Tree 1 is located within the most developable area of the site, avoidance of the tree would not allow the grading of the site necessary to support reasonable development. If other constrained properties encounter trees in similar locations on a site, the same considerations would be provided during the review of the required variance application.

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

The existing conditions or circumstances are not the result of actions by the applicant.

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

The request to remove the tree does not arise from any condition on a neighboring property.

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

All proposed land development activities will require sediment control and stormwater management measures, to be reviewed and approved by the County. The project proposes to meet water quality and quantity requirements in accordance with an approved stormwater management concept plan.

The required findings of Section 25-119(d) have been adequately addressed. The removal of Specimen Tree 1 is **APPROVED**. Additionally, Specimen Tree 2 may warrant the approval of a variance for removal that can be evaluated upon the submission of a variance with the DSP.

8. **Stormwater Management**—The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) has approved a Stormwater Management Concept Plan, 8618-2014-00, to ensure that development of this site does not result in on-site or downstream flooding and that stormwater control is provided on-site. The approved concept shows water quality control requirements being met with bioretention and drywells. The water quantity controls are required for 100 year attenuation. The approval includes a fee payment in lieu of providing on-site attenuation/quality control measures.

The 2010 *Approved Water Resources Functional Master Plan* contains policies and strategies related to the sustainability, protection, and preservation of drinking water, stormwater, and wastewater systems within the County, on a countywide level. These policies are not intended to be implemented on individual properties or projects, and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various

countywide and area master plans; County ordinances for stormwater management, 100-year floodplain, and woodland conservation; and programs implemented by DPIE; the Prince George's County Health Department; the Prince George's County Department of the Environment; the Prince George's Soil Conservation District; the M-NCPPC, Planning Department; and the Washington Suburban Sanitary Commission (WSSC) are also deemed to be consistent with this functional master plan.

9. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, appropriate on-site recreational facilities should be provided for future residents. The recreational areas should be centrally located on the site and should include active and passive recreational facilities, such as playgrounds, outdoor sitting areas, and walking trails for future residents. The PPS provides adequate open space to provide the recommended on-site private recreational facilities.

The applicant proposes to provide three outdoor “educational” sitting areas and one tot-lot to meet the mandatory dedication requirement. The sitting areas are designed to combine outdoor seating with open stormwater management environmental site design areas and educational signage to teach residents and visitors about how stormwater is being managed in their community. The required value of the facilities to be provided is \$78,694.98. A cost estimate for the proposed facilities has been provided which demonstrates that the minimum cost requirement will be met. These facilities will be included in the required recreational facilities agreement and will be bonded for construction to meet the requirements of mandatory dedication.

10. **Trails**—This PPS has been reviewed for conformance with Sections 24-123 and 24-124.01 of the Subdivision Regulations, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), and the Planning Area 68 Master Plan and SMA in order to implement planned trails, bikeways, and pedestrian improvements. The location of the subject site (2350 Queens Chapel Road) is west of the boundary for the West Hyattsville Community Center per the Adequate Public Facility Review Map of Plan Prince George's 2035. Because the site is not located in either a designated center or corridor, it is not subject to the requirements of Section 24-124.01, “Transportation Review Guidelines, Part 2.”

Conformance to the MPOT and Master Plan

The MPOT, which includes complete street principles and policies regarding sidewalk construction and the accommodation of pedestrians and bicyclists, recommends that Queens Chapel Road (MD 500) contain sidewalks and bicycle lanes. The functional plan recommends that “New development should include roadway improvements that accommodate all users” (page 8).

Sidewalks exist along the subject property frontage of MD 500, and the applicant proposes sidewalk improvements along the roadway. The PPS demonstrates sidewalks within the development proposal that are adequate for the proposed use.

The Maryland State Highway Administration (SHA) is actively designing on-road bicycle facilities along MD 500 in this vicinity through an urban reconstruction project. The project includes the

complete reconstruction of MD 500 from the District of Columbia boundary (about 1,400 feet west of the subject site) to Hamilton Street (about 4,200 feet northeast of the subject site).

The applicant proposes to realign the access drive on MD 500 with 24th Avenue. A pedestrian signal warrant study for the intersection of MD 500 and 24th Avenue has not been completed by SHA at this time, but SHA has indicated that such a study may occur as part of their urban reconstruction project of MD 500.

11. **Transportation**—The findings outlined below are based upon a review of materials and analyses consistent with the “Transportation Review Guidelines, Part 1” (Guidelines).

Preliminary Plan of Subdivision 4-04071 (PGCPB Resolution No. 04-220) was originally approved for the creation of Lots 1A and 2A. At the time of 4-0471, 247 multifamily dwelling units already existed on Lot 2A. The PPS proposed an additional 244 multifamily dwellings units to be located on what is now Lot 1A. As a condition of approval of 4-04071, Lot 1A was limited to uses that generate no more than 73 AM and 98 PM peak-hour vehicle trips. The current PPS proposes to subdivide Lot 1A into 71 townhouse lots and 5 parcels. These lots will generate 50 AM and 57 PM peak-hour vehicle trips, which is within the trip cap set by 4-04071 for Lot 1A. Therefore, a traffic study was not required.

Preliminary Plan 4-04071 (PGCPB Resolution No. 04-220) contained two transportation-related conditions, which are provided in **BOLD** below:

8. **At the time of final plat approval, the applicant shall dedicate a right-of-way along MD 500 of 95.6 feet from the opposite right-of-way line, as shown on the submitted plan, or as further determined through the detailed site plan (DSP) process.**

The current plat for the subject site (Plat MMB 234-49) demonstrates right-of-way that satisfies the requirement of Condition 8. There has been no change in the status of Queens Chapel Road (MD 500) in the master plan, and no further studies have occurred. Therefore, no further right-of-way dedication is required.

9. **Total development within the subject property shall be limited to the existing 247-unit high-rise apartment structure, plus 244 proposed apartment/condominium residences within a high-rise structure, or other uses that generate no more than 73 AM and 98 PM peak-hour vehicle trips. Any development other than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities**

This condition sets a trip cap for the overall site by restricting additional development on Lot 1A to uses having trip generation equivalent to 244 multifamily residences or other uses that generate no more than 73 AM and 98 PM peak-hour vehicle trips. The condition also retains a trip cap for Parcel 1B consistent with the existing multifamily or 247 dwelling units. The proposed 71 attached dwellings will generate fewer trips.

Therefore, it is determined that the development proposed does not exceed the previous trip cap imposed by the condition. A trip cap consistent with the development proposed is recommended.

Site Access

The proposed site access is opposite 24th Avenue, which the applicant indicated was required by SHA. An access permit will be required for all construction within the SHA right-of-way (MD 500). The on-site circulation plan for the subject PPS has been reviewed. All internal private roadways must be a minimum of 22 feet in width. Four private streets are shown with dead-ends to the property to the south (with no turnarounds). All four dead-end streets are less than 150 feet in length, therefore, this arrangement is acceptable.

Master Plan Conformance

Queens Chapel Road (MD 500) is a master plan arterial facility. The current plan indicates the correct existing dedication per PGAtlas along existing MD 500 of 105 feet from the opposing right-of-way line.

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

12. **Variations**—The applicant has filed a variation request from Sections 24-121(a)(4) of the Subdivision Regulations for depth of lots adjacent to an arterial roadway. The PPS proposes ten townhouse lots (Lots 1 and 63–71) that do not meet the 150-foot minimum required. Section 24-121(a)(4) states the following:

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

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

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

upon evidence presented to it in each specific case that:

Approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-121 could result in practical difficulties to the applicant, including a loss of density, which would result in the applicant not meeting the minimum density requirement for the development of a residential revitalization development of 12 DUs/acre.

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

The granting of the variation will not be detrimental to public safety, health or welfare, or injurious to other property. Roadways of arterial or higher classification typically generate greater noise levels from traffic than roadways of lesser classification. The minimum lot depth standards provide the opportunity to locate structures such that they are protected from the noise and other impacts of such traffic. While Queens Chapel Road (MD 500) is an arterial roadway, it is in an urbanized area with a lower speed limit than other arterial roadways. Other arterial roadways in the County including Glen Dale Boulevard, Annapolis Road (MD 450), and Kenilworth Avenue (MD 201), permit higher speed limits (40 to 50 mph) than MD 500 with a posted speed limit of 35 mph. A noise study dated April 17, 2015 submitted with this application notes that the posted speed limit on MD 500 is 35 mph. As a result, noise does not extend into the property as far as might occur for other arterial roadways. As reflected in the study, noise was measured on the property at 60 feet behind the existing curb, which is further into the property than the closest lots are proposed. Under current conditions, the noise levels do not exceed 65 dBA Ldn. In addition to testing current conditions, the data collected was modeled for future traffic conditions in 2033. Again, at ground level, the noise at the front of the nearest townhouse unit was 64 dBA Ldn. Even with the units being placed along the road to provide a more attractive urban streetscape, the noise levels at the front of the units do not exceed 65 dBA Ldn at ground level. Granting the variation to allow the proposed layout has no impact on any other property. As a result, there will be no injury to other properties should the variation be granted as requested.

- (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 subject property is unique in that it is an infill parcel between high-density multifamily development and established single-family detached homes. The proposal to construct townhouses on the property provides a transitional development which is compatible with both surrounding uses. The adjacent single-family development does not conform to the lot depth requirement.

Conformance to this requirement for the proposed townhouses would result in a less unified streetscape between these two uses. These conditions are not applicable generally to other properties.

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

Lot depth for lots adjacent to an arterial roadway is regulated only through Subtitle 24; therefore, approving the variation will not violate any applicable regulation.

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

As previously noted, the subject property is an infill parcel in a predominantly developed area located between high-density multifamily development and single-family detached homes. Further, the rear of the subject property (the portion furthest from MD 500) exhibits severe topography which is being preserved by the proposed development. If the strict letter of these regulations was carried out, the townhouse lots would need to be located further into the property, resulting in the applicant not being able to meet the minimum density requirement for a residential revitalization development. For these reasons, strict application of the lot depth requirement would result in a particular hardship on the owner.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, 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.**

The subject property is zoned R-10, but the proposed development is to construct townhouses, not multifamily development. Thus, this provision does not apply to the current application.

Based on the preceding findings, the variation to Section 24-121(a)(4) to create 10 townhouse lots that do not meet the 150-foot lot depth requirement is **APPROVED**.

13. **Schools**—The subdivision has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and Prince George's County Council Resolution CR-23-2003, and the following conclusions were reached:

Impact on Affected Public School Clusters
SF Attached Units

Affected School Clusters #	Elementary School 2 Cluster	Middle School 2 Cluster	High School 2 Cluster
Dwelling Units	73 DU*	73 DU*	73 DU*
Pupil Yield Factor	0.145	0.076	0.108
Subdivision Enrollment	11	6	8
Actual Enrollment	20,414	4,349	8,318
Total Enrollment	20,425	4,355	8,326
State Rated Capacity	17,570	4,334	8,125
Percent Capacity	116%	100%	102%

*At the time of this review, the PPS proposed 73 dwelling units. This proposal was subsequently reduced to 71 dwellings.

Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between the Capital Beltway (I-95/495) and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$9,035 and \$ 15,489 to be paid at the time of issuance of each building permit.

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

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

14. **Fire and Rescue**—The PPS has been reviewed for adequacy of fire and rescue services in accordance with Sections 24-122.01(d) and 24-122.01(e)(1)(E) of the Subdivision Regulations.

Section 24-122.01(e)(1)(E) states that “A statement by the Fire Chief that the response time for the first due station in the vicinity of the property proposed for subdivision is a maximum of seven (7) minutes travel time. The Fire Chief shall submit monthly reports chronicling actual response times for call for service during the preceding month.”

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

Capital Improvement Program (CIP)

The Prince George's County Capital Improvement Program for Fiscal Years 2015–2020 provides funding for rehabilitating the existing station with a new four-bay fire/EMS station.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the “Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure.”

15. **Police Facilities**—The subject property is located in Police District I, Hyattsville. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The PPS was accepted for processing by the Planning Department on June 8, 2015.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 6/8/2015	5/2015-4/2014	6 minutes	12 minutes
Cycle 1			
Cycle 2			
Cycle 3			

Based upon police response times, the response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on June 15, 2015.

16. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.” The 2008 *Water and Sewer Plan* placed part of this property in water and sewer Category 3, Community System. The site will therefore be served by public water and sewer service. The site is located in Sustainable Growth Tier 1.
17. **Health Department**—The PPS was referred to the Prince George's County Health Department for review. At the time of the writing of this report, comments have not been received from the Health Department.
18. **Public Utility Easements**—In accordance with Section 24-122(a) of the Subdivision Regulations, when public utility easements (PUEs) are required by a public utility company, the subdivider should include the following statement on the final plat:

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

Variation Request

The applicant has filed a variation request from Section 24-128(b)(12) of the Subdivision Regulations for standard PUEs, which are ten feet wide and adjacent to either side of the private street rights-of-way. The PPS proposes an alternative PUE to serve the proposed development. Section 24-128(b)(12) states the following:

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

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

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

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

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

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

The conditions on which the variation is based are unique because the site is an urban infill parcel being developed as a residential revitalization project. The site is moderately narrow in shape, being approximately 235 feet wide at the most narrow location, and is surrounded by existing development to the east and west and parkland to the north.

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

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

- (4) **Because of the peculiar 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.**

As previously stated, the site is moderately narrow in shape, being approximately 235 feet wide at the most narrow location, and is surrounded by existing development to the east and west and parkland to the north. Provision of a standard PUE along the property frontage would create a loss of space upon which the proposed development may be constructed.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, 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.**

The subject property is zoned R-10, but the proposed development is to construct townhouses, not multifamily development. Thus, this provision does not apply to the current application.

Based on the findings above, the variation from Section 24-128(b)(12) for an alternative PUE is **APPROVED**.

The PPS does not clearly demonstrate a PUE that serves each proposed townhouse lot. As discussed, the applicant intends to implement an alternative PUE on the site, which is supported. Therefore, prior to certification of the DSP for development of the site, a color-coded utility plan for the alternative PUE is required. The DSP shall demonstrate all of the proposed utility easements in conformance with the utility plan. The applicant shall provide documentation of concurrence of the alternative layout from the applicable utility providers at the time of DSP. At the time of final plat, the PUE shall be reflected on the final plat and granted in conformance with the DSP. If the applicant is unable to obtain consent from all of the affected utilities, a standard ten foot-wide PUE shall be required.

The PUE for private streets currently shown on the PPS should be removed from the plan and a note shall be placed on the PPS prior to signature approval which states the following:

"A variation to Section 24-128(b)(12) of the Subdivision Regulations has been granted by the Planning Board. See DSP-05114-02 for the PUE layout to be reflected on the final plats prior to approval."

19. **Historic**—Aerial photographs from 1968 indicate that the subject property was extensively graded when the adjoining building to the east was constructed. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. This proposal will not impact any historic sites, historic resources, or known archeological sites.
20. **Use Conversion**—This PPS was analyzed based on the proposal for residential development. The analysis includes access, noise, mandatory dedication, and views of the property, specifically relating to the residential land use proposed with this application. While the subject application is not proposing any nonresidential development, if such a land use were proposed, a new PPS will be required.
21. At the hearing on September 10, 2015, the Planning Board approved staff's revised Conditions 1(a) and 3 to specify requirements related to the approved variation to Section 24-128(b)(12) of the Subdivision Regulations. In consideration of testimony provided from community members, the Planning Board directed staff to write a letter to the appropriate agencies to request that the future reconstruction of Queens Chapel Road (MD 500) prioritize signalization of roadway intersections, construction of crosswalks, and pedestrian circulation within the immediate vicinity of this project.

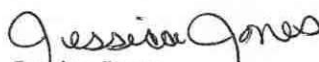
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

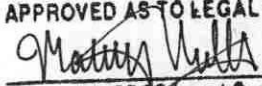
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Bailey, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, September 10, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 1st day of October 2015.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:WM:rpg

APPROVED AS TO LEGAL SUFFICIENCY.

M-NCPP& Legal Department
Date 9/17/15