



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 15-129(A)

File No. 4-15011

A M E N D E D R E S O L U T I O N

WHEREAS, Route 301 IND CPI LTD Partnership is the owner of 7.12-acre parcel of land known as Tax Map 145 Grid C-3 and is also identified as Outlot W, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned Mixed-Use Transportation (M-X-T); and

WHEREAS, on August 28, 2015, Route 3 IND CPI LTD Partnership filed an application for approval of a Preliminary Plan of Subdivision for 56 lots and 9 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-15011 for Stephen's Crossing at Brandywine 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 December 3, 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 December 3, 2015, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

†WHEREAS, by a letter dated October 29, 2021, Edward C. Gibbs, Jr., representing the applicant, requested a waiver and reconsideration of Conditions 3, 4, 8, and 9, and associated findings for the phasing of improvements which are required to meet mandatory parkland dedication requirements;

†WHEREAS, on December 16, 2021, the Planning Board approved the waiver and request for reconsideration based on good cause and substantial public interest; and

†WHEREAS, on February 17, 2022, the Prince George's County Planning Board heard testimony and approved the reconsideration.

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 (TCP1-007-12-02), and further APPROVED Preliminary Plan of Subdivision 4-15011, Stephen's Crossing at Brandywine, including a Variance to Section 25-122(b)(1)(G) and Variation(s) from Section 24-128(b)(7)(A) and 24-128(b)(12) for 56 lot and 9 parcels with the following conditions:

†Denotes Amendment

Underlining indicates new language

[Brackets] and ~~strike through~~ indicate deleted language

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised to make the following technical corrections:
 - a. Add bearings and distances to the western and southern boundaries of the property.
 - b. Separate out the general notes specific to 4-15011 from the overall development that includes 4-11004 and 4-15011.
 - c. Add the M-NCPPC Preliminary Plan Signature Approval Box to Sheet 3, Boundary Survey.
 - d. Correct General Note 20 to reflect "TCP1-007-12/02."
 - e. Add to General Note 26 that a variation from 24-128(b)(12) was approved with PPS 4-15011, if approved.
 - f. Correct General Note 39 to state "Total development of overall site (4-11004) shall be limited to uses that would generate no more than 1,079 AM and 1,479 PM peak-hour vehicle trips, which includes the 39 AM and 45 PM peak-hour vehicle trips approved with 4-15011."
 - g. Add to General Note 40 that the development proposed with 4-15011 is included in the mandatory dedication approved with 4-11004.
 - h. Provide total acreage to be conveyed to HOA.
 - i. All trails shall be hard surfaced.
2. Prior to signature approval of the Preliminary Plan, the TCP1 shall be revised as follows:
 - a. The specimen tree table shall be revised to reflect the variance approval granted by the Planning Board.
 - b. Add the following variance note under the woodland conservation worksheet and complete to reflect the variance approval:

"NOTE: This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on (add date):

 - a. The removal of one specimen tree (Section 25-122(b)(1)(c)): ST-46."
 - c. Have the plan signed and dated by the qualified professional who prepared it.

- †3. Prior to ~~†[the issuance of the 100th]~~ approval of a building permit for the 455th residential building permit within Preliminary Plan 4-15011 and Preliminary Plan 4-11004 (cumulatively), ~~†[or prior to April 1, 2017] whichever comes first~~, the applicant, his successors, and/or assignees collectively shall ~~†[design and]~~ construct a half-section of Cattail Way and an eight-foot-wide trail/sidewalk within the public right-of-way along the entire frontage of Brandywine Park. This work, as well as all other improvements associated with Cattail Way construction, must meet the requirements of the Prince George's Department of Permitting, Inspection and Enforcement ("DPIE"). In addition, the applicant shall construct a 30-foot-wide asphalt driveway and an eight-foot-wide concrete trail connector from Cattail Way to the SAARC parking lot within Brandywine Park. Construction of these improvements shall be deemed complete upon the opening of at least one lane of the road in each direction to traffic and provision of access to the SAARC from Cattail Way. In the event that the DPR determines that the timing of the completion of these improvements can be delayed based upon ~~†[the construction schedule associated with the SAARC project]~~ coordination with DPIE, DPR may, at its sole discretion, adjust the completion date. Any such revision to the completion date shall be communicated in writing to the applicant.
- †4. Prior to ~~†[issuance of the 50th residential building permit]~~ approval of a building permit for the 300th residential dwelling unit within Preliminary Plan 4-15011 and Preliminary Plan 4-11004 (cumulatively) the applicant, his successors, and/or assignees collectively, shall develop ~~†100 percent design~~ construction drawings and specifications for the construction of a half-section of Cattail Way, an eight-foot-wide trail/sidewalk and any required improvements within public right-of-way (along Brandywine Park's road frontage) and submit them to the Prince George's Department of Permitting, Inspection and Enforcement ("DPIE"). †Prior to approval of a building permit for the 370th cumulative residential dwelling unit, the applicant shall obtain permits for construction of these improvements from DPIE.
5. The applicant, his successors, and/or assignees shall be responsible for obtaining all permits that may be required by Federal, State or Local authorities needed to accomplish the design and construction of improvements within the Cattail Way right-of-way.
6. Prior to construction of the 30-foot-wide asphalt entrance driveway and an eight-foot-wide concrete trail connector from Cattail Way to the SAARC parking lot, DPR staff shall provide the applicant construction drawings for the aforementioned improvements.
7. The applicant, his successors, and/or assignees shall design and construct any required storm water management facilities needed for the construction of the half-section of Cattail Way.
- †8. Prior to the first final plat of subdivision the applicant, his successors, and/or assignees shall enter into an Agreement with DPR for the construction of the half-section of Cattail Way, the eight-foot-wide trail/sidewalk and any required improvements within the public right-of-way along

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Brandywine Park's road frontage as well as the 30-foot-wide asphalt entrance and driveway and eight-foot-wide concrete trail connector from Cattail Way to the SAARC parking lot area. †~~[Six weeks]~~ Prior to a submission of a final plat of subdivision, the applicant shall submit to DPR for review and approval three original, executed Agreements. Upon approval by the DPR, the Agreement shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.

- †9. Prior to approval of †a building permit for the 50th residential †~~[building permit]~~ dwelling unit within Preliminary Plan 4-15011 and Preliminary Plan 4-11004 (cumulatively) the applicant, his successors, and/or assignees shall submit to the DPR a performance bond, letter of credit or other suitable financial guarantee, in an amount to be determined by the DPR ~~[, for the construction of half section of Cattail Way, an eight foot wide trail/sidewalk and any other improvements within the public right of way along Brandywine Park's road frontage and for the construction of a 30 foot wide asphalt entrance and driveway and an eight foot wide concrete trail connector from Cattail Way to the SAARC parking lot area].~~ †The current estimated bonding amount is \$200,000 for construction of the eight-foot-wide trail/sidewalk and any other improvements, on parkland along the Brandywine Area Community Park's road frontage, necessary for construction of a 30-foot-wide asphalt entrance at Cattail Way and a driveway with an eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot area.

10. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area, except for 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.”

11. Development of this subdivision shall be in conformance with approved Type 1 Tree Conservation Plan (TCP1-007-12-02). 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 (TCP1-007-12-02), 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

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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."

12. The following note shall be placed on the final plat:

"Prior to signature approval of a TCP2 for this property, pursuant to Section 25-122(d)(1)(B), all woodland preserved, planted or regenerated on-site shall be placed in a woodland conservation easement recorded in land records and the liber/folio of the easement shall be indicated in a note on the TCP2 plan."
13. At time of detailed site plan review, details of all lighting fixtures shall be submitted along with certification that the proposed fixtures are full cut-off optics and a photometric plan showing proposed light levels shall be submitted.
14. At time of detailed site plan, the DSP and TCP2 shall be evaluated by EPS in coordination with DPIE for the maintenance of adequate hydrology in the wetland system on the west side of Missouri Avenue, including but not limited to the following:
 - a. Maintenance of connectivity of the wetland system during the construction of Cattail Way by use of culverts under the right of way or other similar techniques; and
 - b. Opportunities to divert run-off into the wetland system in order to maintain an adequate hydrologic regime.
15. All Type 2 tree conservation plans prepared for the subject property shall include an invasive species management plan which addresses best management practices and appropriate methods of control for invasive species found on site.
16. Prior to the signature of the TCP2 for this site, the liber and folio of the recorded woodland and wildlife habitat conservation easement shall be added to the standard Type 2 Tree Conservation Plan notes on the plan as follows:

"Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George's County Land Records at Liber _____ Folio _____. Revisions to this TCP2 may require a revision to the recorded easement."
17. A copy of the Environmental Site Design Grading, Erosion and Sediment Control Plan shall be submitted to the Environmental Planning Section at time of grading permits so that the ultimate limits of disturbance for the project can be verified and found to be in conformance with the DSP and TCP2.

18. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall provide the Environmental Planning Section with copies of all Federal and State wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
19. A substantial revision to the uses on the subject property that affects Subtitle 24 adequacy findings, as set forth in a resolution of approval, shall require the approval of a new preliminary plan of subdivision prior to the approval of any building permits.
20. Prior to approval of the final plat, the applicant and the applicant's heirs, successors and/or assignees, shall demonstrate that a homeowners' association (HOA) has been established. The draft covenants shall be submitted to the Development Review Division (DRD) to ensure the rights of M-NCPPC Planning Department are included. The liber and folio of the declaration of covenants shall be noted on the final plat prior to recordation.
21. 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 consistent with the approved preliminary plan of subdivision and DSP. Land to be conveyed shall be subject to the following:
 - a. A copy of the recorded deed for the property to be conveyed shall be submitted to the Maryland-National Capital Park and Planning Commission (M-NCPPC) Planning Department, Subdivision Review Section of the Development Review Division (DRD), Upper Marlboro.
 - b. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - c. The conveyed land shall not suffer the disposition of construction materials, soil filling, other than the placement of fill material associated with permitted grading operation that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
 - d. Any disturbance of land to be conveyed to a HOA shall be in accordance with an approved detailed site plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD in accordance with the approved detailed site plan.
 - f. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.

22. Development of this site shall be in conformance with the Stormwater Management Concept Plan, 15615-2014-00 and any subsequent revisions.
23. Prior to the approval of the first detailed site plan, the applicant and the applicant's heirs, successors, and/or assignees, shall provide a plan for any interpretive signage to be erected and public outreach measures (based on the findings of the Phase I and Phase II archeological investigations). The location and wording of the signage and the public outreach measures shall be subject to approval by Historic Preservation staff. The DSP shall include the timing for the installation of the signage and the implementation of public outreach measures.
24. Prior to the approval of the first detailed site plan, the applicant shall submit a viewshed analysis from the historic village of Brandywine and the Early Family National Register Historic District (85A-085). If the analysis identifies any views which would adversely impact the character of the historic village, landscape screening on the perimeter of the subject property shall be provided as mitigation.
25. Prior to approval of any ground disturbance or grading permits, the applicant shall deliver all artifacts and appropriate associated documentation to the Maryland State Archeological Conservation Laboratory for curation, and shall provide documentation of the State's acceptance of the materials to the M-NCPPC Planning Department's archeologist.
26. Prior to final plat, the applicant shall obtain a detailed site plan approval for the proposed development.
27. At the time of DSP, the applicant shall:
 - a. Show conformance with the requirements of Section 4.6 of the Landscape Manual for Lot 12, to provide the bufferyard outside of the lot, obtain approval of an Alternative Compliance application, or remove this lot.
 - b. Explore and provide additional information on sustainability at both the site and building levels, to the extent practical.
 - c. Provide adequate spacing between the proposed stormwater management pond and townhouse lots to allow for a path and seating for future residents as part of the open space component for the development.
28. In conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (SMA), the applicant and applicant's heirs, successors, and/or assignees shall provide the following prior to approval and at the time of detailed site plan (DSP):
 - a. Provide bicycle parking details for all onsite bicycle parking.

- b. Streetscape details, crosswalks, lane control markings, lighting, curb ramps, splitter island locations, driveway crossings, pedestrian safety symbols, and pedestrian safety signage shall be delineated on the DSP, as applicable.
 - c. Trails shall be shown no less than 20 feet from all private residential lot lines and/or 25 feet from all residential buildings, excluding where trails connect with the internal road or sidewalk network, unless environmental constraints/impacts exist that make this impractical.
- 29. Provide pedestrian refuge islands, crosswalks, curb extensions, and other traffic calming and safety devices on all roads per the Prince George's County Department of Public Works and Transportation (DPW&T) standards and with American Association of State Highway and Transportation Officials (AASHTO) guidance. Details of the pedestrian refuge islands, crosswalks, curb extensions, and other traffic calming devices shall be shown on the DSP if approved and are subject to modification by DPW&T.
- 30. Provide pedestrian streetscape and safety improvements, subject to the review and approval of Department of Public Works and Transportation (DPW&T), along Cattail Avenue, including:
 - a. A standard crosswalk crossing Road M Private at the intersection of Road M Private and Cattail Way;
 - b. Curb ramps that meet ADA guidelines on the southwest and south east corners of the intersection of Cattail Way and Road 'M' Private.
- 31. Provide a financial contribution of \$210 to the Department of Public Works and Transportation (DPW&T) for the placement of one "Share the Road with a Bike" sign along Missouri Avenue. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit.
- 32. Prior to signature approval of the Preliminary Plan, the plans shall be revised to reflect minimum six-foot-wide asphalt trails, not mulch trails, on the private HOA land, thereby, meeting *Park and Recreation Facilities Guidelines* and American with Disabilities (ADA) Guidelines.
- 33. The applicant is responsible for the construction of a half-section of Cattail Way along the frontage of Brandywine Area Community Park Road. In addition, the applicant is responsible for an eight-foot-wide trail/sidewalk along the same frontage, and any improvements within the public right-of-way as required by the Department of Public Works and Transportation (DPW&T).
- 34. Prior to the issuance of any building permits within the subject property, 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:

- a. Provision of signalization and dual southbound left-turn lanes along US 301 at Mattawoman Drive, provision of a northbound right-turn lane along US 301 at Mattawoman Drive, and provision of the east leg of the intersection (the Mattawoman Drive approach from the south/east) as five lanes, configured with two left-turn lanes, two through lanes, and one right-turn lane.
 - b. Provision of signalization at the MD 381/Mattawoman Drive intersection, and provision of an eastbound left-turn lane and westbound right-turn lane along MD 381 at Mattawoman Drive is proposed.
35. The applicant and/or the applicant's heirs, successors, or assignees shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and constructed through the formation of a road club that will include the applicant, the Montgomery Wards Brandywine Distribution Center, the Brandywine Commerce Center, the Mattawoman-Brandywine Commerce Center, the Brandywine Business Park, the Brandywine/301 Industrial Park, the Hampton CDZ, and other property owners in the area designated as Employment Area "C" in the Subregion V Master Plan, as well as any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George's County) and Mattawoman Creek, and any other properties for which participation is deemed necessary by the Planning Board.

A fee calculated as $\$1.41 \text{ per gross square foot of space } X (\text{Engineering News-Record Highway Construction Cost index at time of payment}) / (\text{Engineering News-Record Highway Construction Cost Index for first quarter, 1993})$.

For each townhouse, duplex, or two-family attached (two-over-two) unit, a fee calculated as $\$1,187 X (\text{Engineering News-Record Highway Construction Cost index at time of payment}) / (\text{Engineering News-Record Highway Construction Cost Index for first quarter, 1993})$.

For each multifamily unit, a fee calculated as $\$886 X (\text{Engineering News-Record Highway Construction Cost index at time of payment}) / (\text{Engineering News-Record Highway Construction Cost Index for first quarter, 1993})$.

Payment is to be made in trust to the road club escrow agent and shall be due, on a pro rata basis, at the time of issuance of building permits. Prior to issuance of any building permit(s), the applicant shall provide written evidence to M-NCPPC that the required payment has been made.

The off-site transportation improvements to be constructed are set forth below. Construction of these improvements shall occur in the numerical sequence in which they appear. Each improvement shall be constructed if and only if sufficient funds for engineering, full design, and construction have been deposited into the road club escrow account by road club members or said funds have been provided by public agencies. The off-site transportation improvements shall include:

- a. Widen US 301/MD 5 from a four-lane road to a six-lane road beginning at Timothy Branch (north of Cedarville Road) and extending northerly to the US 301/MD 5 interchange (at T.B.).The construction shall be in accordance with presently approved SHA plans.
 - b. Install a traffic signal at the A-63/Cedarville Road intersection, provided said signal is deemed warranted by DPW&T.
 - c. Make minor widening/striping improvements to the US 301/MD 5 interchange ramps.
 - d. Widen US 301 from a four-lane road to a six-lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of MD 381.
 - e. Reconstruct the traffic signal at US 301/MD 381.
 - f. Install a traffic signal at the MD 381/A-63 intersection, provided said signal is deemed warranted by DPW&T and SHA.
 - g. Provide a grade separation at the point the spine road crosses US 301 northeast of T.B.
 - h. Reconstruct the traffic signal at MD 5/Brandywine Road.
 - i. Construction of an interchange in the area of US 301/MD 5 and Cedarville/McKendree Roads.
 - j. Construction of an interchange in the area of MD 5 and A-63 north of T.B.
 - k. Construction of A-63 as a six-lane arterial roadway (where off site) between the US 301/MD 5/Cedarville Rd./McKendree Rd. intersection and MD 5 north of T.B.
 - l. Widen US 301/MD 5 from a six-lane road to an eight-lane road beginning at the T.B. interchange (US 301/MD 5) and extending southerly to Mattawoman Creek.
 - m. Widen MD 5 from a four-lane road to a six-lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of the planned intersection with A-63.
36. Total development shall be limited to uses that would generate no more than 39 AM and 45 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.

37. At 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 and one side of private streets, or an alternative PUE acceptable to all applicable public utility providers, as reflected on the approved DSP.
38. Approval of this preliminary plan shall supersede Preliminary Plan 4-11004 (PGCPB Resolution No. 14-110(C)) for the development of this property.
39. Prior to signature approval of the Preliminary Plan, the applicant shall submit the Concept Sediment Control Plan, the Phase II Noise Study, and the Traffic Impact Study previously submitted in the record of Preliminary Plan 4-11004.

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 145 grid C-3, and has a gross tract area of 7.12 acres, and is identified as Outlot W on approved preliminary plan of subdivision (PPS) 4-11004 (PGCPB Resolution No.14-110(C)) which was approved by the Planning Board on October 2, 2014. The property is located in the southeast intersection of Robert Crain Highway (US 301) and Brandywine Road (MD 381).The 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan and SMA) rezoned the subject property from the Light Industrial (I-1) Zone to the Mixed-Use Transportation-Oriented (M-X-T) Zone. The applicant obtained approval of Conceptual Site Plan CSP-09003 on February 6, 2014 (PGCPB Resolution No.14-09) and CSP-09003-01 on November 20, 2012.This PPS is in conformance with that approval as discussed further.

Outlot W was included as part of the previously approved 4-11004. That PPS had an overall gross tract area of 169.34 acres, and was approved on October 2, 2014 (PGCPB Resolution No.14-110(C)). On August 21, 2014, prior to that approval staff was advised that an area of wetlands was identified that had not previously been known by staff or the applicant. This area of wetlands is located on the south side of Cattail Way, south of Brandywine Area Community Park (M-NCPPC) known as the proposed Southern Area Aquatics and Recreation Center (SAARC) on Parcel A in the southwest quadrant of the intersection of Cattail Way and Missouri Avenue. With PPS 4-11004, the area of this PPS was proposed for 57 lots for the development of townhouses. Because the environmental feature was identified late in the review of PPS 4-11004, the wetland was not evaluated or reflected on the approved natural resources inventory (NRI), the proposed tree conservation plan (TCP), or PPS. Therefore, staff advised the applicant that this area of the site should be converted to an outlot, where the applicant could then prepare appropriate plans, consult with the U.S. Army Corp of Engineers, and file a new PPS for the lotting out of this area of development. This PPS is the result of that action.

This PPS proposes 56 single-family attached lots (TH) on what was previously identified as Outlot W. Twelve (12) of the lots front on Cattail Way, and are designed with rear-load garages being served by a private alley, specifically Lots 1–12. Thirty-three (33) of the lots are designed with front-load garages and directly access Private Road ‘M’ (Parcel U-8), specifically Lots 24–56. The remaining eleven (11) lots front on open space (Parcel U-4), but will be rear loaded being served by private alley off of a private road subject to the approval of the variation from Section 24-128(b)(7)(A) for utilizing an alley for access (Parcel U-6) for lots fronting on private roads and open space, specifically Lots 13–23. The Planning Board approves of this variation request, and finds that the interior street system proposed by the applicant is adequate to serve the development.

This PPS proposes one vehicular access via a private road connection to Cattail Way to the north. Internal vehicular traffic and circulation for the now proposed 56 townhouse (TH) lots is served by two private streets on Parcel U-8 (Private Road ‘M’) and one private alley on Parcel U-6. Private Road ‘M’ is shown with a right-of-way width of 44 feet and a pavement width of 26 feet, with two areas of guest parking on one side and five-foot-wide sidewalks along both sides. The private alley is proposed with a right-of-way width of 28 feet and a pavement width of 22 feet.

Nine (9) parcels are proposed with this PPS which will be conveyed to the homeowners association; one for private roads, one for a private alley, and seven for open space elements. Of the open space parcels, Parcel U-7 (1.72 acres) provides adequate area to preserve the wetlands adjacent to Cattail Way, and provides for the required residential buffer along Missouri Avenue.

The application includes two variation requests and one variance request, as discussed further. All of the variations and the variance request are approved by the Planning Board.

The Planning Board **approved** the PPS with conditions as modified at the public hearing as set forth in this resolution.

3. **Setting**—The subject property comprises 7.12 acres located at the southwest quadrant of the intersection of Missouri Avenue and Cattail Way and Mangrove Drive in Brandywine. The property is zoned Mixed-Use Transportation-Oriented (M-X-T). The site is bounded on the north by Cattail Way (PM 228-79) a 70-foot-wide dedicated public street, on the west and south by approved PPS 4-11004 zoned M-X-T, which is to be developed with TH (west) and tree afforestation and preservation (south), and on the east by existing Missouri Avenue. Across Cattail Way is the location of the proposed M-NCPPC Southern Area Aquatics and Recreation Center (Parcel A). The property across Missouri Avenue to the east is zoned Rural Residential (R-R) and is approved for the development of single-family detached homes.

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

	EXISTING	APPROVED
Zone	M-X-T	M-X-T
Use(s)	Vacant	Single-family attached
Acreage	7.12	7.12
Lots	0	56 (townhouse)
Outlots	1	0
Parcels	0	9
Dwelling Units:		
Single Family Attached	0	56
Public Safety Mitigation Fee	No	No
Variance	No	Yes
		25-122(b)(1)(G)
Variations		Yes
		24-128(b)(7)(A)
		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 July 17, 2015. The requested Variation to Section 24-128(b)(7)(A) of the Subdivision Regulation was accepted on October 6, 2015 and was heard at the SDRC meeting on October 23, 2015 as required by Section 24-113(b) of the Subdivision Regulations. The requested Variation to Section 24-128(b)(12) of the Subdivision Regulations was accepted on October 27, 2015 and was heard at the SDRC meeting on November 20, 2015 as required by Section 24-113(b) of the Subdivision Regulations.

5. **Previous Approvals**—The applicant obtained approval of Conceptual Site Plan CSP-09003 on February 6, 2014 (PGCPB Resolution No.14-09). Outlot W was included as part of PPS 4-11004. That PPS had an overall gross tract area of 169.34 acres, and was approved on October 2, 2014 (PGCPB Resolution No.14-110(C)) for 379 lots and 73 parcels and a dwelling unit total of 1,295.

The approval of PPS 4-11004 included adequacy for mandatory dedication of parkland and transportation which would support the resubdivision of Outlot W into 57 townhouse lots, in Finding 2 (page 16) as follows:

“The analysis of this PPS included adequacy for mandatory dedication of parkland and transportation which would support the resubdivision of Outlot W into 57 townhouse lots.”

6. **Community Planning**—*The Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) makes no relevant recommendations influencing a development application on this property. The 2013 Approved Subregion 5 Master Plan SMA recommends mixed-use

development. Although the future land uses envisioned in the master plan are commercial, employment, and light industrial, the accompanying sectional map amendment implemented the recommended land use by rezoning the subject property from the I-1 Zone to the M-X-T Zone, which allows the residential and commercial (primarily retail) uses proposed as part of the larger mixed-use development of the Stephen's Crossing site, CSP-09003 (PGCPB Resolution No. 14-09 approved on February 6, 2014), townhouse development and meets the purposes of the M-X-T Zone.

The proposed M-NCPPC Southern Area Aquatics and Recreation Complex is located north of the subject site, across Mattawoman Drive from the property. There are also two planned trails running through the larger Stephen's Crossing property, which will be nearby and available for residents living in this phase of the development. One trail is running north-south through the eastern portion of the property, connecting the development to the proposed park, and the other is along the future extension of Mattawoman Drive. There is also a planned shared lane on Missouri Avenue along the eastern boundary of the property, and sidewalks are recommended along Missouri Avenue per the approval of PPS 4-11004. These sidewalks will connect with the sidewalks being constructed on the northern side of Mattawoman Drive along Missouri Avenue as part of the development of the Southern Area Aquatics and Recreation Complex. Sidewalks should be constructed along Missouri Avenue and Brandywine Road to complete segments needed to connect the proposed development to the greater Brandywine community, and are recommended.

7. **Stormwater Management**—The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) has approved a Stormwater Management Concept Plan, 15615-2014 that is valid through August 15, 2017, to ensure that development of this site does not result in on-site or downstream flooding. The concept shows stormwater management requirements to be met through the use of three major retention ponds, and well as a variety of environmental site design (ESD) methodologies. Development of the site shall conform to the approved stormwater management concept plan and any subsequent revisions.

Technical stormwater management plans for the subject property, under Case Number 37306-2005-01, were approved on April 29, 2013, for the three retention ponds proposed on the site and are still valid for the residential portion of the site. It should be noted that the pond design reflect the use of BMPs including forebays and wet extended detention BMP consistent with environmental site design.

8. **Parks and Recreation**—Outlot W was previously approved as part of Stephens Crossing at Brandywine (PPS 4-11004) and is subject to the approval of CSP-09003 (PGCPB Resolution No. 14-09). The analysis of the PPS 4-11004 included adequacy for mandatory dedication of parkland for the entire property, including 57 TH lots on what is now Outlot W. According to Section 24-134(a)(3)(D) of the Subdivision Regulations, this subdivision is exempt from the mandatory dedication of parkland; because of the findings the conditions of the Preliminary Plan 4-11004 related to the entire property including Outlot W. Therefore, the conditions of approval related to parks and recreation for the fulfillment of mandatory dedication are applicable to this subdivision, and are carried forward.

†Summary of 2022 Reconsideration

†By letter dated October 29, 2021 (submitted November 22, 2021), Edward C. Gibbs, Jr., representing Route 301 Industrial CPI Limited Partnership, requested a waiver of the Planning Board Rules of Procedure (Section 10(a)) and a reconsideration of Preliminary Plan of Subdivision (PPS) 4-15011, which was approved by the Prince George's County Planning Board on December 3, 2015. The resolution (PGCPB No. 15-129) was adopted on January 7, 2016. On December 16, 2021, the Planning Board granted a waiver of the Planning Board Rules of Procedure to admit a reconsideration request submitted more than 14 days after the adoption of the resolution. The Planning Board also granted the applicant's request for a reconsideration, in accordance with Section 10(e) of the Rules of Procedure. Section 10(e) states that reconsideration may only be granted if, in furtherance of substantial public interest, the Board finds that an error in reaching the original decision was caused by fraud, surprise, mistake, inadvertence, or other good cause. The Planning Board granted the request for reconsideration based on other good cause, in furtherance of substantial public interest. The applicant's specific request was for reconsideration of Conditions 3, 4, 8, and 9, and any related findings. The conditions reconsidered pertain to construction of off-site improvements required for mandatory dedication under this finding.

†Between approval of the PPS in 2015 and the reconsideration in 2022, the applicant was unable to move forward with construction of the Stephen's Crossing project, in part due to the cost of installing the development's road infrastructure. In particular, the applicant found that the wetland impacts of Cattail Way are greater than originally anticipated near where it intersects with Missouri Avenue. When PPS 4-15011 and associated PPS 4-11004 were approved, the applicant anticipated that construction would commence with the dwellings proposed at the east end of the development near this intersection, and construction of Cattail Way would accordingly proceed westerly from the intersection, in order to serve the dwellings. However, due to the increased costs of starting development at the previously intended starting point, the applicant wishes to instead begin construction near where Mattawoman Drive will intersect MD 381. Construction would then proceed northeasterly toward Missouri Avenue.

†As a result of this change, all of the infrastructure improvements required by 4-11004 to meet mandatory parkland dedication (carried forward under this finding) would be among the last infrastructure improvements to be installed, rather than among the first. The conditions reconsidered, however, were originally written to require these improvements be provided following the earliest phases of the development. The applicant requested that construction of the improvements be delayed, so that additional phases of the development can be constructed before the improvements are required. Delaying the requirements will allow the applicant additional time to acquire the necessary capital to construct the improvements, which they will need to finance through the sale of dwelling units.

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PPS 4-11004 (PGCPB Resolution No. ~~†[14-110]~~ 14-110(C)(A)) was reconsidered, with the applicant's requested amendments approved, on February 17, 2022. PPS 4-11004 includes ~~†[the]~~ Conditions 10, 11, 12, 13, 14, 15, ~~†and 16~~, which relate to Parks and Recreation. ~~†Of these,~~ Conditions 10, 11, 15, and 16 were reconsidered:

10. ~~†[Prior to the 100th residential building permit or prior to April 1, 2017, whichever comes first, the applicant, his successors, and/or assigns, shall design and construct a half-section of Cattail Way and an 8-foot-wide trail/sidewalk within the public right-of-way along the entire frontage of Brandywine Area Park. This work, as well as all other improvements associated with Cattail Way construction, must meet the requirements of the Prince George's Department of Permitting, Inspection and Enforcement ("DPIE"). In addition, the applicant shall construct a 30-foot-wide asphalt driveway and an 8-foot-wide concrete trail connector from Cattail Way to the SAARC parking lot within Brandywine Area Park. Construction of these improvements shall be deemed complete upon the opening of at least one lane of the road in each direction to traffic and provision of access to the SAARC from Cattail Way. In the event that the DPR determines that the timing of the completion of these improvements can be delayed based upon the construction schedule associated with the SAARC project, DPR may, at its sole discretion, adjust the completion date. Any such revision to the completion date shall be communicated in writing to the applicant.]~~

Prior to approval of a building permit for the 455th residential dwelling unit within Preliminary Plan 4-15011 and Preliminary Plan 4-11004 (cumulatively), the applicant and the applicant's heirs, successors, and/or assignees shall construct a half-section of Cattail Way and an eight-foot-wide trail/sidewalk within the public right-of-way along the entire frontage of Brandywine Area Community Park. This work, as well as all other improvements associated with Cattail Way construction, must meet the requirements of the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE). In addition, the applicant shall construct a 30-foot-wide asphalt driveway and an eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot within Brandywine Area Community Park. Construction of these improvements shall be deemed complete upon the opening of at least one lane of the road in each direction to traffic and provision of access to the SAARC from Cattail Way. In the event that the Prince George's County Department of Parks and Recreation (DPR) determines that the timing of the completion of these improvements can be delayed based upon coordination with DPIE, DPR may, at its sole discretion, delay the completion date. Any such revision to the completion date shall be communicated in writing to the applicant.

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11. ~~†[Prior to issuance of 50th residential building permit, the applicant, his successors, and/or assigns, shall develop construction drawings and specifications for the construction of a half-section of Cattail Way, an 8-foot wide trail/sidewalk and any required improvements within public right-of-way (along Brandywine Area Park's road frontage) and submit them to the Prince George's Department of Permitting, Inspection and Enforcement ("DPIE").]~~

Prior to approval of a building permit for the 300th residential dwelling unit within Preliminary Plan 4-15011 and Preliminary Plan 4-11004 (cumulatively), the applicant and the applicant's heirs, successors, and/or assignees shall develop 100 percent design construction drawings and specifications for the construction of a half-section of Cattail Way, an eight-foot-wide trail/sidewalk, and any required improvements within the public right-of-way (along the Brandywine Area Community Park's road frontage) and submit them to the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE). Prior to approval of a building permit for the 370th cumulative residential dwelling unit, the applicant shall obtain the permits for construction of these improvements from DPIE.

12. The applicant, his successors, and/or assigns, shall be responsible for obtaining all permits that may be required by Federal, State or Local authorities needed to accomplish the design and construction of improvements within Cattail Way right-of-way.
13. Prior to construction of the 30-foot-wide asphalt entrance driveway and an 8-foot-wide concrete trail connector from Cattail Way to the SAARC parking lot, DPR staff shall provide the applicant construction drawings for the aforementioned improvements.
14. The applicant, his successors, and/or assigns, shall design and construct any required storm water management facilities needed for the construction of the half-section of Cattail Way.
15. ~~†[Prior to the first final plat of subdivision, the applicant, his successors, and/or assigns, shall enter into an Agreement with DPR for the construction of the half-section of Cattail Way, the 8-foot wide trail/sidewalk and any required improvements within the public right-of-way along Brandywine Area Park's road frontage as well as the 30-foot wide asphalt entrance and driveway and 8-foot wide concrete trail connector from Cattail Way to the SAARC parking lot area. Six weeks prior to a submission of a final plat of subdivision, the applicant shall submit to DPR~~

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~~for review and approval three original, executed Agreements. Upon approval by the DPR, the Agreement shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.]~~

Prior to the first final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assignees shall enter into an agreement with the Prince George's County Department of Parks and Recreation (DPR) for construction of the eight-foot-wide trail/sidewalk and any required improvements on park property along the Brandywine Area Community Park's road frontage, as well as the 30-foot-wide asphalt entrance and driveway and the eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot area. Prior to submission of a final plat of subdivision, the applicant shall submit to DPR for review and approval three original executed agreements. Upon approval by the DPR, the agreement shall be recorded among the Land Records of Prince George's County, Upper Marlboro, Maryland, and the liber and folio reflected on the final plat prior to recordation.

16. ~~†[At least two weeks prior to application for 50th residential building permit, the applicant, his successors, and/or assigns, shall submit to the DPR a performance bond, letter of credit or other suitable financial guarantee, in an amount to be determined by the DPR, for the construction of half section of Cattail Way, an 8-foot wide trail/sidewalk and any other improvements within the public right of way along Brandywine Area Park's road frontage and for the construction of a 30 foot-wide asphalt entrance and driveway and an 8 foot wide concrete trail connector from Cattail Way to the SAARC parking lot area.]~~

Prior to the recommendation of approval by The Maryland-National Capital Park and Planning Commission (M-NCPPC) of a building permit for the 50th residential dwelling unit within Preliminary Plan 4-15011 and Preliminary Plan 4-11004 (cumulatively), the applicant and the applicant's heirs, successors, and/or assignees shall submit to the Prince George's County Department of Parks and Recreation (DPR) a performance bond, letter of credit, or other suitable financial guarantee, in an amount to be determined by DPR. The current estimated bonding amount is \$200,000 for construction of the eight-foot-wide trail/sidewalk and any other improvements on parkland along the Brandywine Area Community Park's road frontage necessary for the construction of a 30-foot-wide asphalt entrance at Cattail Way and a driveway with an eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot area.

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~~†[The Department of Parks and Recreation (DPR) is in the process of designing a multi-generational recreational complex to be constructed in Brandywine Park. This recreational facility is known as the Southern Area Aquatic and Recreational Complex (SAARC) and will include a 75,000-square-foot multi-generational recreational facility, as envisioned in the adopted Formula 2040 Functional Master Plan for Parks, Recreation and Open Space. It is anticipated that the SAARC will be completed in 2018.]~~ The residents of Stephens Crossing at Brandywine will be able to walk to ~~†[this]~~ a 75,000-square-foot multi-generational regional public recreational facility ~~†within Brandywine Park known as the Southern Area Aquatic and Recreational Complex (SAARC).~~ by way of a proposed trail along Cattail Way. The applicant also proposed the construction of private recreational facilities and trails that will be evaluated by the DSP. The Department of Parks and Recreation staff recommends approval of PPS 4-15011 with conditions.

9. **Trails**—The site is covered by the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan SMA).

The subject site will be a residential section adjacent to the Brandywine Area Community Center, now known as the SAARC, and a part of a larger mixed-use development (CSP-09003). Pedestrian and bicycle facilities such as sidewalks, trail connections, and shared roadway markings will benefit the future residents of and visitors to the subject site.

The subject site is an outlot of a development with three prior approvals: Conceptual Site Plans CSP-09003 and CSP-09003-01, and Preliminary Plan of Subdivision 4-11004. These approvals included the following conditions related to bicycle and pedestrian facilities and will be carried forward with this PPS as appropriate:

CSP-09003 (PGCPB Resolution No. 14-09)

4. **At the time of detailed site plan (DSP), the following design issues shall be addressed:**
- f. **Provide bicycle parking at major transit locations and adjacent to all new commercial development and recreational uses on-site. Provide bicycle parking details for all bicycle parking.**
 - g. **Streetscape details, crosswalks, lane control markings, lighting, curb ramps, splitter island locations, driveway crossings, pedestrian safety symbols, and pedestrian safety signage shall be delineated on the DSP, as applicable.**

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- n. Provide continuous sidewalks adjacent to all of the commercial buildings and along both sides of all roads, unless a sidepath is provided.**
- o. Bus transit stop locations shall be provided on the DRP and indicated as “Conceptual Bus” or “Conceptual Transit Stop Location,” as indicated on area and functional master plans, or on capital**
- r. Trails shall be shown no less than 20 feet from all private residential lot lines and/or 25 feet from all residential buildings, excluding where trails connect with the internal road or sidewalk network, unless environmental constraints/impacts exist that make this impractical.**
- t. Provide a trail connection that connects the proposed multifamily units located at the end of Daffodil Court directly to Mattawoman Drive to the west, provided that the necessary approvals and permits for disturbance of environmental features are approved by all applicable authorities, including, but not limited to, the Maryland Department of the Environment and/or the Army Corps of Engineers.**

Conditions 4(n), 4(o), and 4(t) are beyond the limits of Outlot W. Conditions 4(f), 4(g), and 4(r) are relevant to the subject site and the Planning Board found that these design details be addressed at the time of detailed site plan and that these conditions are applicable to the subject site. At the time of DSP, streetscape details that improve walking and bicycling in the area should be depicted. All trails shall be at least 20 feet from any proposed residential buildings, per Condition 3(r). Sidewalks along residential buildings are depicted in PPS 4-15011, as well as five-foot sidewalks along the south side of Cattail Way and the west side of Missouri Avenue.

- 14. Provide a minimum eight-foot-wide continuous sidepath on one side of Cattail Way between Mattawoman Drive and Missouri Avenue, unless modified by the Department of Public Works and Transportation (DPW&T).**

An eight-foot-wide sidepath is depicted on PPS 4-15011, and is conditioned.

- 15. At the time of detailed site plan (DSP) review, provide pedestrian refuge islands, crosswalks, curb extensions, and other traffic calming and safety devices on all roads per the Department of Public Works and Transportation (DPW&T) standards and with American Association of State Highway and Transportation Officials (AASHTO) guidance. Details of the pedestrian refuge islands, crosswalks, curb extensions, and other traffic calming devices shall be shown on the DSP and are subject to modification by DPW&T.**

Pedestrian travel, especially between residential development and adjacent Southern Area Aquatic and Recreational Complex is expected; traffic calming and pedestrian safety efforts should be considered.

- 16. All trail connectors to the proposed park to the east shall be provided on the detailed site plan and shall be constructed to meet Parks and Recreation Facilities Guidelines, unless modified by the Prince George's County Department of Parks and Recreation.**

The trail connectors to the proposed park are beyond the limits of the Outlot W.

4-11004 (PGCPB Resolution No. 14-110(C))

The following conditions of approval were required to fulfill mandatory parkland dedication (Section 24-124), for the overall Stephen Crossing development, which includes the subject site. These conditions are carried forward with this PPS.

- 10. Prior to the 100th residential building permit or prior to April 17, 2017, whichever comes first, the applicant and the applicant's heirs, successors, and/or assignees shall design and construct a half-section of Cattail Way and an eight-foot-wide trail/sidewalk within the public right-of-way along the entire frontage of Brandywine Area Community Park. This work, as well as all other improvements associated with Cattail Way construction, must meet the requirements of the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE). In addition, the applicant shall construct a 30-foot-wide asphalt driveway and an eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot within Brandywine Area Community Park. Construction of these improvements shall be deemed complete upon the opening of at least one lane of the road in each direction to traffic and provision of access to the SAARC from Cattail Way. In the event that Prince George's County Department of Parks and Recreation (DPR) determines that the timing of the completion of these improvements can be delayed based upon the construction schedule associated with the SAARC project, DPR may, at its sole discretion, delay the completion date. Any such revision to the completion date shall be communicated in writing to the applicant.**
- 11. Prior to issuance of 50th residential building permit, the applicant and the applicant's heirs, successors, and/or assignees shall develop construction drawings and specifications for the construction of a half-section of Cattail Way, an eight-foot-wide trail/sidewalk, and any required improvements within the public right-of-way (along Brandywine Area Community Park's**

road frontage) and submit them to the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE).

15. **Prior to the first final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assignees shall enter into an agreement with the Prince George's County Department of Parks and Recreation (DPR) for construction of the eight-foot-wide trail/sidewalk and any required improvements on park property along the Brandywine Area Community Park's road frontage as well as the 30-foot-wide asphalt entrance and driveway and the eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot area. Six weeks prior to submission of a final plat of subdivision, the applicant shall submit to DPR for review and approval three original executed agreements. Upon approval by the DPR, the agreement shall be recorded among the Land Records of Prince George's County, Upper Marlboro, Maryland, and the liber and folio reflected on the final plat prior to recordation.**
16. **Prior to the recommendation of approval by The Maryland-National Capital Park and Planning Commission (M-NCPPC) for the 50th residential building permit, the applicant and the applicant's heirs, successors, and/or assignees shall submit to the Prince George's County Department of Parks and Recreation (DPR) a performance bond, letter of credit, or other suitable financial guarantee, in an amount to be determined by DPR, for construction of the eight-foot-wide trail/sidewalk and any other improvements on parkland along the Brandywine Area Community Park's road frontage necessary for the construction of a 30-foot-wide asphalt entrance and driveway and an eight-foot-wide concrete trail connector from Cattail Way to the Southern Area Aquatic and Recreational Complex (SAARC) parking lot area.**
21. **In conformance with the 2009 Approved Countywide Master Plan of Transportation (MPOT), the 2013 Approved Subregion 5 Master Plan and Sectional Map Amendment, and Conceptual Site Plan CSP-09003, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:**
 - d. **Provide a minimum eight-foot-wide continuous sidepath on the north side of Cattail Way between Mattawoman Drive and Missouri Avenue, to ensure access to the public park from the development.**
 - e. **Provide standard sidewalks along both sides of all internal roads (public and private, excluding alleys), unless modified by the Prince George's County Department of Public Works and Transportation (DPW&T) for public roads and detailed site plan for private roads.**

22. Prior to approval and at the time of detailed site plan (DSP), the following design issues shall be addressed:

- a. Provide bicycle parking at major transit locations and adjacent to all new commercial development and recreational uses on-site. Provide bicycle parking details for all bicycle parking.**
- b. Streetscape details, crosswalks, lane control markings, lighting, curb ramps, splitter island locations, driveway crossings, pedestrian safety symbols, and pedestrian safety signage shall be delineated on the DSP, as applicable.**
- c. Provide continuous sidewalks adjacent to all of the commercial buildings and along both sides of all roads, unless a sidepath is provided.**
- d. Trails shall be shown no less than 20 feet from all private residential lot lines and/or 25 feet from all residential buildings, excluding where trails connect with the internal road or sidewalk network, unless environmental constraints/impacts exist that make this impractical.**
- e. Provide a hard surface trail connection from the proposed multifamily dwelling units located at the end of Daffodil Court directly to Mattawoman Drive to the west, provided that the necessary approvals and permits for disturbance of environmental features are approved by all applicable authorities including, but not limited to, the Maryland Department of the Environment and/or the U.S. Army Corps of Engineers.**
- f. Sidewalks and/or striped designated pedestrian walkways shall be considered through large areas of surface parking at the time of DSP.**
- g. Provide pedestrian refuge islands, crosswalks, curb extensions, and other traffic calming and safety devices on all roads per the Prince George's County Department of Public Works and Transportation (DPW&T) standards and with American Association of State Highway and Transportation Officials (AASHTO) guidance. Details of the pedestrian refuge islands, crosswalks, curb extensions, and other traffic calming devices shall be shown on the DSP and are subject to modification by DPW&T.**

h. All trail connectors to the proposed park to the east shall be provided on the DSP and shall be constructed to meet Parks and Recreation Facilities Guidelines, unless modified by the Prince George's County Department of Parks and Recreation.

33. Prior to the recommendation of approval by The Maryland-National Capital Park and Planning Commission (M-NCPPC) for the 200th building permit, the applicant shall construct Cattail Way over Timothy Branch. This roadway connection shall include construction within the public right-of-way of an eight-foot-wide trail/sidewalk which shall connect Daffodil Court to the Southern Area Aquatic and Recreational Complex (SAARC). The status of construction of Cattail Way shall be provided with each detailed site plan proposing residential development which fronts on or accesses Cattail Way.

2009 Approved Countywide Master Plan of Transportation

Four master plan trails are in the vicinity of the subject site. These include recommendations for the Timothy Branch Stream Valley Trail, a shared roadway facility on Missouri Avenue, bicycle lanes on Brandywine Road, and a side path on Mattawoman Drive. Although the Brandywine Road bicycle lanes, the Mattawoman Drive sidepath, and the Timothy Branch Trail are near the subject site, they are beyond the subject site's limits. Furthermore, the Mattawoman Drive sidepath and the Brandywine Road bicycle lanes will be implemented as conditions in Preliminary Plan 4-11004. The Timothy Branch trail has been realigned per the Department of Public Works and Transportation (DPW&T) and no longer runs adjacent to the subject site.

Shared roadway facilities on Missouri Avenue, such as shared lane pavement markings (sharrows) would contribute to achieving and completing MPOT goals and recommendations. However, the width of Missouri Avenue will likely preclude it from shared roadway pavement markings. Although "Share the Road" signage generally cannot provide way finding for bicyclists, alert road users of the lateral position bicyclists are expected to occupy in the travel lane, or encourage bicyclists to position themselves safely in the travel lane, signage can be used to help alert motorists of possible bicyclists using the roadway.

The MPOT includes several policies related to pedestrian access and the provision of sidewalks. The Complete Streets Section includes the following policies regarding sidewalk construction, bicycle facilities, and the accommodation of pedestrian and provision of complete streets:

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

The proposed development is consistent with this policy. Standard sidewalks are depicted along the frontage of public roads abutting residential development on PPS 4-15011. An eight-foot-wide sidepath is depicted on north side Cattail Way and a five-foot-wide sidewalk is depicted on the south side of Cattail Way. An eight-foot-wide sidepath is also depicted on the west side of Missouri Avenue.

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

Outlot W is subject to the policy and recommendations have been included that accommodate all modes of transportation on Cattail Way and Missouri Avenue, which include, pedestrian and bicyclist.

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

The subject site contains frontage along Missouri Avenue, a planned MPOT shared roadway facility. The subject applicant can add “Share the Road” signage along its frontage. Note that there is a 2012 AASHTO guide for bicycle facilities.

Policy 9: Provide trail connections within and between communities as development occurs, to the extent feasible and practical.

The applicant has proposed a sidewalk and side path on Cattail Way that will connect with the Mattawoman trail. Additionally, the applicant has proposed two trails within the subject site that connect to a stormwater management pond and to Missouri Avenue. These trails are planned as mulch trails which must be changed to hard surface trails. Mulch trails generally do not meet Americans with Disabilities Act guidelines, and do not meet Parks and Recreation facility guidelines. Parks and Recreation design requirements are listed in the *Park and Recreation Facilities Guidelines* (page 160):

1. Required:

- a. Hard surfaced paths are required in all townhouse developments, multifamily developments, Comprehensive Design Zones, and Recreational Communities to link recreational facilities with residences.
- b. Hard surfaced paths will also be required in any development that proposed recreation facilities instead of payment of fee-in-lieu or dedication of land. Woodchips allowed only in densely wooded areas with minimum length 400 feet.

Approved Subregion 5 Master Plan and Proposed Sectional

The area master plan includes one recommended trail that is nearby the subject site.

Timothy Branch Steam Valley Trail: This trail will stretch along Timothy Branch between Dyson Road and Mattawoman Creek. It will provide access to the Brandywine Community Center.

The Timothy Branch Stream Valley Trail has been relocated to Mattawoman Drive in the vicinity of the subject site.

The 2013 Approved Subregion 5 Master Plan and Sectional Map Amendment also provides the following policies and strategies that are directly related to bicycle and pedestrian improvements at or near the subject site include:

Policies:

- **Promote pedestrian and bicycle opportunities as part of a multi-modal transportation network.**
- **Promote and encourage cycling and walking for commuting purposes as an alternative to driving a car.**
- **Promote safe pedestrian and bicycle facilities in and around public schools, and in population centers such as Accokeek, Clinton, and Brandywine.**

Strategies:

- **Construct sidewalks along all major transportation facilities in areas where there are concentrations of people.**
- **Develop street and sidewalk/trail connections between adjacent subdivisions as new development occurs.**
- **Install bicycle signage and safety improvements along designated shared-use roadways when development occurs or roadways are upgraded. Bikeway improvements may include paved shoulders, painted bike lanes, and bike signage.**

The sidepath and sidewalks along Cattail Way, the sidewalk adjacent the proposed residential properties, as well as the sidewalk along Missouri Avenue will all contribute to improving the bicycle and pedestrian access to and within the subject site. Additional safety features, such as crosswalks, pavement markings, curb ramps, and signage can ensure that all users will be aware of the best places to cross streets, as well as increased awareness of other road users.

10. **Transportation**—The site was originally approved as part of PPS 4-90045 (PGCPB Resolution No. 90-230) in 1990. This approval was superseded by PPS 4-11004 in 2014 (PGCPB Resolution No. 14-110 (C)). A traffic count or study was not required with this application because an

adequacy finding for transportation was made in the approved PPS cited above for the area of this application identified as Outlot W and the PPS is still valid. Finding 11 of the PGCPB Resolution No. 14-110(C) begins by stating the following:

Finding 11

The Transportation Planning Section has reviewed the PPS where the applicant proposes to develop the overall property as a mixed-use development with approximately 1,352 residences (1,295 plus 57 (Outlot W)) and 300,000 square feet of commercial/office/retail space.

The following transportation conditions are from the approved Preliminary Plan 4-11004:

Conditions 30 and 31:

- 30. The applicant shall develop and submit a phasing plan for the following improvements at the time of the initial detailed site plan for property involving development on Mattawoman Drive, and also shall submit any needed warrant studies related to the installation of signalization at this time. The installation of signalization would be implemented when deemed warranted and required by SHA. A status report for these improvements shall be submitted with each detailed site plan following the approval of the phasing plan, with the transportation staff recommendation to be based upon a comparison of the status with the phasing plan:**
 - a. Provision of signalization and dual southbound left-turn lanes along US 301 at Mattawoman Drive, provision of a northbound right-turn lane along US 301 at Mattawoman Drive, and provision of the east leg of the intersection (the Mattawoman Drive approach from the south/east) as five lanes, configured with two left-turn lanes, two through lanes, and one right-turn lane.**
 - b. Provision of signalization at the MD 381/Mattawoman Drive intersection, and provision of an eastbound left-turn lane and westbound right-turn lane along MD 381 at Mattawoman Drive is proposed.**
- 31. The applicant and the applicant's heirs, successors, and/or assignees shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and constructed through the formation of a road club that will include the applicant, the Montgomery Wards Brandywine Distribution Center, the Brandywine Commerce Center, the Mattawoman-Brandywine Commerce Center, the Brandywine Business Park, the Brandywine/301 Industrial Park, the Hampton CDZ, and other property owners in the area designated as Employment Area "C" in the Subregion V Master Plan, as well as any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George's County) and**

Mattawoman Creek, and any other properties for which participation is deemed necessary by the Planning Board:

A fee calculated as \$1.41 per gross square foot of space X (Engineering News-Record Highway Construction Cost index at time of payment) / (Engineering News-Record Highway Construction Cost Index for first quarter, 1993).

For each townhouse, duplex, or two-family attached (two-over-two) unit, a fee calculated as \$1,187 X (Engineering News-Record Highway Construction Cost index at time of payment) / (Engineering News-Record Highway Construction Cost Index for first quarter, 1993).

For each multifamily unit, a fee calculated as \$886 X (Engineering News-Record Highway Construction Cost index at time of payment) / (Engineering News-Record Highway Construction Cost Index for first quarter, 1993).

Payment is to be made in trust to the road club escrow agent and shall be due, on a pro rata basis, at the time of issuance of building permits. Prior to issuance of any building permit(s), the applicant shall provide written evidence to M-NCPPC that the required payment has been made.

The off-site transportation improvements to be constructed are set forth below. Construction of these improvements shall occur in the numerical sequence in which they appear. Each improvement shall be constructed if and only if sufficient funds for engineering, full design, and construction have been deposited into the road club escrow account by road club members or said funds have been provided by public agencies. The off-site transportation improvements shall include:

- a. Widen US 301/MD 5 from a four-lane road to a six-lane road beginning at Timothy Branch (north of Cedarville Road) and extending northerly to the US 301/MD 5 interchange (at T.B.). The construction shall be in accordance with presently approved SHA plans.**
- b. Install a traffic signal at the A-63/Cedarville Road intersection, provided said signal is deemed warranted by DPW&T.**
- c. Make minor widening/striping improvements to the US 301/MD 5 interchange ramps.**
- d. Widen US 301 from a four-lane road to a six-lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of MD 381.**
- e. Reconstruct the traffic signal at US 301/MD 381.**

- f. Install a traffic signal at the MD 381/A-63 intersection, provided said signal is deemed warranted by DPW&T and SHA.**
- g. Provide a grade separation at the point the spine road crosses US 301 northeast of T.B.**
- h. Reconstruct the traffic signal at MD 5/Brandywine Road.**
- i. Construction of an interchange in the area of US 301/MD 5 and Cedarville/McKendree Roads.**
- j. Construction of an interchange in the area of MD 5 and A-63 north of T.B.**
- k. Construction of A-63 as a six-lane arterial roadway (where off site) between the US 301/MD 5/Cedarville Rd./McKendree Rd. intersection and MD 5 north of T.B.**
- l. Widen US 301/MD 5 from a six-lane road to an eight-lane road beginning at the T.B. interchange (US 301/MD 5) and extending southerly to Mattawoman Creek.**
- m. Widen MD 5 from a four-lane road to a six-lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of the planned intersection with A-63.**

These conditions are adequacy-related conditions imposed with the approval of 4-11004, and should be carried over to this application verbatim. The subject site is required to contribute to the Brandywine Road Club. During the review of the prior preliminary plan of subdivision (4-11004), the Planning Board made a finding of adequacy of transportation facilities that included the level of development proposed in this application. Finding 2 on page 16 of PGCPB Resolution No. 14-110(C) noted that the finding of adequacy included adequacy of transportation that would support up to 57 townhouse lots. The subject application proposes 56 townhouse lots. The Planning Board reaffirms this finding of adequacy for the reasons set forth herein.

During the review of 4-11004, the Planning Board determined the level of contribution required for the proposed lots. The level of this contribution is determined during the review of the PPS. It is noted that the Brandywine Road Club has posed several issues for the Planning Board in the past, and these issues are briefly summarized below:

- (1) The use of the Brandywine Road Club in approving a development poses an issue of concurrency. Section 24-124 of the Subdivision Regulations (the section that governs findings of adequate transportation facilities) is intended to ensure that needed transportation facilities occur concurrently with development or within a reasonable time thereafter. However, transportation inadequacies in the area have**

been documented since 1989. Beginning in 1990, many properties have been approved with a condition to pay funds toward a Brandywine Road Club. However, since those initial approvals, no improvements have been constructed. Furthermore, there is nothing in either the current county CIP or the state's CTP that suggests that needed improvements are funded for construction.

- (2) Section 24-124(a)(8) authorizes the use of the Brandywine Road Club to alleviate any inadequacy of transportation facilities because the Brandywine Road Club was established prior to November 16, 1993 and participation by the applicant in funding the improvements identified in the conditions of approval will alleviate the inadequacy as defined in the guidelines.
- (3) Prince George's County Council Resolution CR-61-2011 clarified and allowed the use of the Brandywine Road Club as a means of determining transportation adequacy for properties located entirely within mixed-use zones. Given that the subject property is zoned M-X-T, one of the mixed-use zones cited in CR-61-2011, it has been determined that the use of the Brandywine Road Club is consistent with the intent of the council resolution.
- (4) County Council Resolution CR-61-2011, while clarifying the use of the Brandywine Road Club as a means of determining transportation adequacy for properties located entirely within mixed-use zones, also stated that funds paid into the Brandywine Road Club or funds contributed in the future, may be used to assist in the construction of A-63 between MD 381 and the MD 5 interchange. The subject traffic study directs that this connection should be made a priority as a means of providing a local roadway reliever route for portions of US 301 and MD 5 that experience failing conditions due to heavy through traffic.

For the reasons described above, the use of the Brandywine Road Club as a means, in part, of finding adequacy for this Subdivision is in accordance with Section 24-124(a)(8) and CR-61-2011. It is determined that adequate transportation facilities are found with the improvements at the intersections within the study area as proffered and described above are bonded, permitted with a time table for construction, and there is participation in the Brandywine Road Club.

Condition 32

- 32. Total development of the site shall be limited to uses that would generate no more than 1,079 AM and 1,479 PM peak-hour vehicle trips. Any development generating an impact greater than that identified here in above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.**

The fifty-six proposed townhouses will generate 39 AM and 45 peak-hour vehicle trips, which are included in the trip cap above, and are not in addition to the 1,079 AM and 1,479 PM peak-hour trips.

Traffic Analysis

The subject property is located within Transportation Service Area – TSA 2, as defined in the *Plan Prince George's 2035 Approved General Plan*. A traffic count was not required for the purpose of making an adequacy finding since a finding had previously been made for the site. The site is part of 436 previously approved townhouse lots. Total development of the overall site is limited to 1,079 AM and 1,479 PM peak-hour vehicle trips.

Master Plan Roads

Cattail Way (C-610) and Missouri Avenue (P-505) are master plan roadways listed in the *Approved Subregion 5 Master Plan and Sectional Map Amendment* with right-of-way widths of 80 feet and 60 feet respectively. No further dedication is required.

Site Access Evaluation

The site will be accessed by Cattail Way. As noted above there are conditions in approved Preliminary Plan 4-11004 that require its construction. Turnarounds are shown on all private roads and alleys, a requirement of Preliminary Plan 4-11004. Pavement widths are acceptable on the private alley and private roads. Sidewalks are required on both sides of all internal roadways (public or private, excluding alleys). Sidewalks are shown on both sides of internal roadways. There are no sidewalks on the private alley. DPW&T may request an additional exit lane at Cattail Way, pavement width is shown at twenty-six feet, this is an operational issue.

Variation Request

A variation from Section 24-128(b)(7)(A) was requested. The applicant requests that townhouses with alleys be permitted to be constructed where they would not have frontage on a public street, but from private streets. Private roads are shown with twenty-six feet of pavement, one alley is shown with twenty-two feet of pavement. The Planning Board approves of the variation request.

Transportation Staff Conclusions

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code with conditions.

11. **Schools**—The Special Projects Section has reviewed this PPS for impact on public school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2003 and concluded the following:

**Impact on Affected Public School Clusters
Attached Single-Family Units**

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 4	High School Cluster 4
Dwelling Units	56 DU	56 DU	56 DU
Pupil Yield Factor	0.145	0.076	0.108
Subdivision	8	4	6
Actual Enrollment	5,318	1,695	2,911
Total Enrollment	5,326	1,699	2,917
State Rated Capacity	6,487	2,457	4,013
Percent Capacity	82%	69%	73%

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-95/495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan amendment 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. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$9,017 and \$ 15,458 to be paid at the time of issuance of each building permit.

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

Prince George's County Public Schools, Department of Capital Programs, submitted a referral stating that the area schools have capacity to accommodate the additional students generated from the proposed development, and added that Brandywine Elementary, Gwynn Park Middle and Gwynn Park High Schools are technically within walking distance of this PPS. The Department of Capital Programs suggests the requirement of sidewalks on both sides of Missouri Avenue, Mattawoman Drive and Dyson Road. Since the sidewalks are within dedicated public rights-of-way, this will be determined by the operating agency, which is the Department of Permitting, Inspections and Enforcement (DPIE).

12. **Fire and Rescue**—The Special Projects Section has reviewed this PPS for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(c)(1)(C) and (E) of the Subdivision Regulations.

Section 24-122.01(c) (1)(C) 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 New Brandywine Fire and Emergency Medical Services Company 840, a first due response station (a maximum of seven (7) minutes travel time), is located at 13809 Brandywine Road.

The Office of the Fire Marshal provided verbal comments to staff on November 9, 2015, requesting that the PPS be designed to provide adequate turnaround capabilities in conformance with the International Building Code. This should be further reviewed time of detailed site plan review.

Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn fire and rescue personnel staffing levels. The Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.

13. **Police Facilities**—The proposed development is within Police District V, Clinton. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on August 8, 2015.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 8/28/2015	7/2015-6/2014	9 minutes	14 minutes
Cycle 1			
Cycle 2			
Cycle 3			

Based upon police response times, the response time standards of ten minutes for emergency calls and the 25 minutes for nonemergency calls were met on September 7, 2015.

The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

14. **Water and Sewer Categories**—The 2008 *Water and Sewer Plan* designates “Outlot W” (as described by its existing parcels and lots) in Water and Sewer Category 3, inside the Sewer Envelope, in the Growth Tier (previous Developing Tier), and within Tier 1 under the Sustainable

Growth Act. Water and sewer lines in Missouri Avenue abuts Outlot W at Lot 10 and Outlot A. Water and sewer line extensions may be required to service the proposed subdivision and must be approved by the Washington Suburban Sanitary Commission (WSSC) before approval of the final plat.

15. **Use Conversion**—This PPS was analyzed based on the proposal for residential development. The analysis includes access, mandatory dedication, public facilities, and the land use and layout proposed with this application. While the subject application is not proposing any nonresidential development, if such a land use were proposed, a new preliminary plan of subdivision shall be required.
16. **Public Utility Easement (PUE) and Variation**—Section 24-122 of the Subdivision Regulations requires a public utility easement (PUE) abutting all public rights-of-way when requested by utility companies. The applicant has proposed providing these PUEs along private rights-of-way as required. Section 24-128(b)(12) of the Subdivision Regulations requires a ten-foot-wide PUE along at least one side of all private streets. The applicant has filed a variation request to Section 24-128(b)(12).

The subject property's urban design character, including environmental site constraints, challenge the traditional design approaches for utility easement arrangement and design. The proposed layout utilizes private streets and †~~[an-alleys]~~ alleys, in accordance with the M-X-T Zone of the property. The Washington Suburban and Sanitary Commission (WSSC) requires a 30-foot-wide easement over these areas and does not allow their easements to collocate within PUEs, without specific agreement.

Due to the private street layout, and that some of the units are rear-loaded, some lots have frontage on two rights-of-way, or three in the case of some end units. The applicant is requesting flexibility in the ability to design utilities for this development. The applicant is required to obtain consent from all of the affected utility companies for the alternative utility layout. If the applicant is not able to demonstrate the consent of all of the utility companies, a standard ten-foot-wide PUE will be required along at least one side of all private streets. This determination shall be made at the time of review and approval of the DSP. With an alternative utility easement, the purpose of providing the necessary utilities can be met in a nontraditional location, but does require the approval of the utility companies.

Section 24-113 of the Subdivision Regulations provides that the Planning Board may approve a variation to the strict application of the regulations:

- (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**

†Denotes Amendment

Underlining indicates new language

[Brackets] and ~~strike through~~ indicate deleted language

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:

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 Sections 24-128(b)(12) could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property in accordance with the M-X-T Zone.

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

Granting the variation for the standard PUE location will not be detrimental to the public safety, health, or welfare, or be injurious to other property, subject to all of the affected utilities companies consenting to the alternative utility layout at the time of DSP, which is recommended. If the utility companies do not consent, the DSP shall reflect the standard ten-foot-wide PUE.

- (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 site contains physical constraints including primary management areas (PMAs) and 100-year floodplain that are driving the compact nature of most of the development. These physical constraints have resulted in a design that inhibits providing a traditional PUE. The configuration of the property is the result of the location of the PMAs and the existing dedicated public rights-of-way, conditions unique to this site and not shared by any abutting properties of the same size.

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

Granting the variation subject to a condition that all of the affected utilities approve the alternative prior to DSP approval will ensure that no other applicable law, ordinance, or regulation is violated.

- (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 configuration of the property is the result of the location of the PMAs and the existing dedicated public rights-of-way, conditions unique to this site and not shared by any abutting properties of the same size. Providing the ten-foot-wide PUEs as required could result in a hardship on the owner by requiring dry utilities to take precedence over the wet utilities. This could result in the owner not being able to satisfy the utility companies and; therefore, not be able to provide the necessary services to the residents, and may result in a substantial reduction in the number of lots.

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

This section does not apply to the instant variation because the property is zoned M-X-T.

- (b) **A petition for any such variation shall be submitted in writing by the subdivide prior to the meeting of the Subdivision Review Committee and at least thirty (30) calendar days prior to hearing by the Planning Board. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.**

The variation was filed on October 27, 2015 and heard before the SDRC on November 20, 2015.

Based on the analysis, the Planning Board **approves** a variation to Section 24-128(b)(12), subject to approval by all of the affected utility companies prior to approval of the DSP. If the applicant is unable to obtain consent from all of the affected utilities, a ten-foot-wide PUE shall be provided along one side of all private streets and reflected on the DSP prior to certification.

In accordance with Sections 24-122(a) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider should include the following statement in the owner's dedication on the final plat:

“Utility easements are granted pursuant to the terms and provisions recorded among the Land Records of Prince George’s County in Liber 3703 at Folio 748.”

The preliminary plan of subdivision delineates a ten-foot-wide public utility easement (PUE) along the frontages of Cattail Way and Missouri Avenue, both public rights-of-way. The PUE is to be shown on the DSP and will be required on the final plat prior to approval.

17. **Historic**—A Phase I archeological survey was conducted on the subject property in January and March 2011. Two sites, 18PR1017 and 18PR1018, are located in the area included in this preliminary plan. Site 18PR1017 is a small historic resource identified in a wooded area in the eastern portion of the study area. The site was thought to be confined to the plow zone and contained few artifacts. Site 18PR1018 is another small historic artifact scatter located in the eastern portion of the study area. The site was thought to be confined to the plow zone and contain few artifacts. Although sites 18PR1017 and 18PR1018 are located in actively plowed agricultural fields, there was the possibility that there were intact subsurface features below the plow zone that had not yet been identified. Therefore, staff recommended that Phase II investigations be conducted on sites 18PR1017 and 18PR1018 in December 2011.

Phase II archeological evaluation of sites 18PR1017 and 18PR1018 were conducted in December 2011 at the request of Historic Preservation staff. No intact cultural features were identified in the Phase II investigations. Site 18PR1017-18 is interpreted as an eighteenth-through twentieth-century domestic resource. A mid-eighteenth to early-nineteenth-century domestic residential component was identified in the west central portion of the site. A late-nineteenth to mid-twentieth century domestic occupation was identified in the northwestern portion of the site. A prehistoric component was also defined in the southeastern part of the site.

Based on the distribution of brick, it was concluded that the earlier dwelling was of frame or wood construction and likely contained a single brick chimney. However, no intact features were identified and the number and types of artifacts recovered were limited. There were also no intact features found in association with the prehistoric component of site 18PR1017-18. The artifacts were poorly preserved, mixed and limited in terms of quantity and type and the materials were confined to soils with poor stratigraphic integrity. Therefore, the site contains limited research value and no further archeological work was recommended. Staff concurs that due to the lack of stratigraphic integrity and the limited research potential of site 18PR1017-18, no additional archeological work is necessary on that site.

The Village of Brandywine (85A-032-00) is located to the southeast of the developing property. There are five County designated historic sites in the village: William W. Early House (NR/85A-032-09); William B. Early House (85A-032-10); William H. Early Store (85A-032-11); Chapel of the Incarnation (NR/85A-032-27); and the Old Bank of Brandywine (85A-032-30); and one historic resource, Marian Early Bean House (85A-032-28). These properties are also included in the Early Family National Register Historic District (85A-085) listed in 2012.

Phase I and II investigations produced significant historical information on the subject property. The applicant should work with Historic Preservation staff to develop interpretive signage that will convey the historical significance of the archeological sites identified on the subject property to the public. Based on the historical background research on the subject property, the applicant worked with Historic Preservation staff to develop historical names for the streets within the development, and reserved the names with the Property Address Section. Based on the proximity of the developing property to the historic sites and National Register Historic District in the nearby village of Brandywine, the applicant should consider the views to and from the developing property and the potential impact of those views on the character of the historic village. Specifically, the applicant should explore the introduction of landscape screening on the perimeter of the developing property to mitigate the views of it.

18. **Environmental**—The current application is for the subdivision Outlot W located within the limits of PPS 4-11004 and CSP-09003, which was placed into an outlot due to the late discovery of one regulated environmental features on a portion of the site which needed to be reviewed and evaluated prior to subdivision approval. Upon approval of this PPS, it will supersede PPS-4-11004 for the development of this property. The Environmental Planning Section recommends approval of Preliminary Plan 4-15011 and revised Type 1 Tree Conservation Plan TCP1-007-12-02 subject to findings and conditions.

Background

Development Review Case	Associated TCP(s)	Authority	Status	Action Date	Resolution Number
A-9751-C	NA	District Council	Approved	7/24/89	
4-90045	NA	Planning Board	Approved	5/31/90	PGCPB No.90-230
A-9878 (Subregion 5 Master Plan and SMA)	NA	District Council	Approved	1993	CR-60-1993
NRI-047-08	NA	Planning Director	Approved	3/13/09	NA
NRI-047-08-01	NA	Planning Director	Approved	12/1/10	NA
NRI-047-08-02	NA	Planning Director	Approved	3/13/09	NA
NRI-047-08-03	NA	Planning Director	Approved	4/9/12	NA
CSP-09003-01	TCPI-084-90-01	Planning Board	Approved	7/19/12	PPGCPB No.12-76
Subregion 5 Master Plan and SMA	NA	District Council	Approved	2013	CR-(Rezoned from I-1 to M-X-T)
NRI-047-08-04	NA	Planning Director	Approved	12/20/13	NA
CSP-09003	TCPI-007-12	Planning Board	Approved	2/6/14	PGCPB No.14-09
4-11004	TCPI-007-12-01	Planning Board	Approved	4/23/14	PGCPB No.14-110(C)
NRI-047-08-05	NA	Planning Director	Approved	5/29/15	NA
4-15011	TCPI-007-12-02	Planning Board	Pending		

This site was previously reviewed by the Environmental Planning Section in conjunction with Zoning Map Amendment A-9751-C, the approval of a Preliminary Plan of Subdivision, 4-90045, and a Type I Tree Conservation Plan, TCPI-084-90. A portion of the preliminary plan moved forward to approval of a Detailed Site Plan, DSP-02006 and Type II Tree Conservation Plan, TCPII-023-02, on April 11, 2002 for a pressure reducing station located in the northeast quadrant of the intersection of Brandywine Road and Mattawoman Drive.

A Natural Resource Inventory, NRI-047-08, was signed for the overall Stephen's Crossing development on March 13, 2009. The NRI was revised several times due to new information regarding the existing condition, as detailed in the Environmental Review section. The most recent review for a revision (-05) was approved on May 29, 2015.

ZMA-9751-C: The ZMA application was a request to rezone 196.70 acres of land to the M-X-T Zone, located in the northeast quadrant of Brandywine Road and US 301, from the R-A Zone to the I-1 Zone, which was approved by the District Council on July 24, 1989 subject to conditions. The site was further evaluated in the adopted Subregion 5 Master Plan and Sectional Map Amendment for Subregion 5 (2013). The adopted Sectional Map Amendment for Subregion 5 rezoned Brandywine Business Park, (Lots 1 through 21) from the I-1 to the M-X-T Zone, which was consistent with the Brandywine concept plan which proposes a mix of commercial, employment, and light industrial uses. Lot 22 was retained in the I-1 Zone, and as a result the previous conditions of approval for ZMA-9151-C are applicable to Lot 22, but are no longer applicable to the M-X-T zoned portion of the site.

The original CSP-09003 application first reviewed in 2010 was for approval of a conceptual site plan and TCP1 for approximately 750 residential units (townhouse and multifamily) and 200,000 to 400,000 square feet of commercial office/retail space in the M-X-T Zone, but was placed in a pending status for the resolution of outstanding issues including a revised NRI, and a District Council decision.

In order to provide for necessary infrastructure improvements in the M-X-T Zone for the development of Lot 22 under DSP-09011 approved October 7, 2010, a revision to the Conceptual Site Plan, CSP-09003-01 and Type I Tree Conservation Plan TCPI-084-90-01, was proposed and approved by the Planning Board on July 19, 2012 subject to conditions contained in PGCPB Resolution No. 12-76. The purpose of this DSP was solely for public utility connections for Lot 22, which is off-site to this application.

Conceptual Site Plan CSP-09003 and Type 1 Tree Conservation Plan TCP1-007-12-12 were approved by the Planning Board on February 6, 2014 subject to conditions contained in PGCPB Resolution No. 14-09. Preliminary Plan 4-11004 and Type 1 Tree Conservation Plan TCP1-007-12-01 were approved by the Planning Board on April 23, 2014, subject to conditions contained in PGCPB Resolution No. 14-110(C).

Proposed Activity

The current application is a preliminary plan of subdivision and revised TCP1 for development of approximately 56 residential units (single-family attached townhouses) on Outlot W in the M-X-T Zone, which is located within the geographic boundary of 4-11004. However, this PPS (4-15011) will supersede that approval for the development of this property.

Grandfathering

This project is subject to the current environmental regulations contained in Subtitles 24 and 27 that became effective on September 1, 2010 and February 1, 2012, because there are no previous development approvals that would provide grandfathering.

This project is subject to the current requirements of Subtitle 25, Division 2. Woodland and Wildlife Habitat Conservation Ordinance, that became effective on September 1, 2010 and February 1, 2012 because the site has previous TCP approvals subject to current requirements.

Site Description

The overall Stephen's Crossing development (4-15011 and 4-11004) consists of 169.34-acre site is located in the northeast quadrant of the intersection of Brandywine Road (MD 381) and US 301 and is zoned M-X-T. A review of the information available indicates that streams, wetlands and wetland buffers, and areas of 100-year floodplain are found to occur on the subject property. No areas of severe slopes or steep slopes with highly erodible soils are found on the subject property. The development is located adjacent to US 301, which is classified as a freeway, and Brandywine Road (MD 381), which is classified as a collector. Mattawoman Road, which is a master planned right-of-way classified as an arterial, bisects the development. This site will require evaluation for transportation-related noise impacts on the proposed residential uses of the site for all roads classified as arterial or higher. The soils found to occur according to the Web Soil Survey include the Aquasco, Beltsville, Downer-Hammonton, Ingleside, Lenni and Quindocqua, Leonardtown, Potobac and Woodstown series. The majority of these soils have been identified as having limitations for development due to impeded drainage and high or perched water tables. No Marlboro clays are found to occur in the vicinity of the property. 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 this property or adjacent properties. Brandywine Road is a designated historic road which abuts the overall development. The property is located in a Priority Funding Area, and is currently located within the Established Communities Area of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developed Tier) of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan*. The site is located in the Mattawoman Creek subwatershed of the Potomac River. According to the 2005 *Approved Countywide Green Infrastructure Plan*, the site includes Regulated Areas, Evaluation Areas, and Network Gaps.

Outlot W is a 7.12-acre outlot located on the eastern boundary of the property, which includes no 100-year floodplain, is not abutting US 301, or Brandywine Road. Outlot W was created with the prior preliminary plan because additional wetlands and wetland buffers were discovered. The NRI has subsequently been revised and the new preliminary plan application addresses the environmental impacts proposed.

Plan Prince George's 2035 Approved General Plan

After the previous subdivision application was submitted, a new General Plan was adopted by the District Council. The current application is located within the Established Communities area of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan*.

Conformance with the 2013 Approved Subregion 5 Master Plan and Sectional Map Amendment

The overall development is located within the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 SMA). The Subregion 5 SMA rezoned the majority of the Stephen's Crossing development from I-1 to M-X-T, consistent with the Brandywine concept plan which proposes a mix of commercial, employment, and light industrial uses, but retained Lot 22 in the I-1 Zone. Because the I-1 Zone was retained for Lot 22, the previous conditions of approval still apply to Lot 22, which has an approved detailed site plan approval as Detailed Site Plan DSP-09011 and Type 2 Tree Conservation Plan TCP2-055-09, subject to conditions contained in PGCPB Resolution No. 10-108.

The approved Subregion 5 Master Plan includes a chapter on the Environment, with seven subchapters which include the following policies and strategies which are applicable to the current application.

Subchapter A. Green Infrastructure Plan Policies

- **Implement the master plan's desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.**
- **Ensure that new development incorporates open space, environmentally sensitive design, and mitigation activities.**
- **Protect, preserve, and enhance the identified green infrastructure network within Subregion 5**

The master plan rezoned this site from the I-1 and I-3 Zone to the Mixed-Use-Transportation (M-X-T) indicating the preferred development pattern for the site. The PPS generally shows the retention of the regulated environmental features delineated in the Green Infrastructure Plan, and adjacent Evaluation Areas providing expanded riparian buffer, where priority woodlands have been retained consistent with the intentions of environmental policies and regulations cited in the Master Plan.

Environments Site Design (ESD) techniques for stormwater management have been incorporated into the project. Further opportunities for on-site environmental mitigation and enhancement through restoration and conservation of regulated environmental features and implementation of best management practices will be identified at appropriate stages of the development process.

Strategies
Ongoing

- **Protect primary corridors (Mattawoman Creek, Piscataway Creek and Tinkers Creek) during the review of land development proposals to ensure the highest level of preservation and restoration possible. Protect secondary corridors to restore and enhance environmental features, habitat and important connections.**
- **Preserve or restore regulated areas designated in the green infrastructure network through the development review process for new land development proposals.**
- **Evaluate land development proposals in the vicinity of SCAs to ensure the SCAs are not impacted and that green infrastructure connections are either maintained or restored.**

The site lies within the Mattawoman Creek watershed which is a primary corridor where a stringent standard (to the fullest extent possible) will apply to the review of land development proposals. Preservation, conservation and enhancement of the on-site streams and hydrologic systems associated with the current application are discussed in the Environmental Review section.

- **Continue to implement the county's Woodland Conservation and Tree Preservation Ordinance, which places a priority on the preservation of woodlands in conjunction with floodplain, wetlands, stream corridors, and steep slopes and emphasizes the preservation of large, contiguous woodland tracts.**
- **Preserve habitat areas to the fullest extent possible during the land development process.**

Conservation of the sensitive environmental features identified on the most recently approved NRI and the retention of priority woodland and habitat areas on the TCP1 are discussed in the Environmental Review section.

Subchapter B. Water Quality, Stormwater Management, Groundwater
Policies

- **Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.**

Strategies
Ongoing

- **Emphasize protection and preservation of the headwater wetlands and headwaters areas of streams to preserve and maintain area hydrology when reviewing land development proposals.**

- **Support ground water recharge areas through techniques such as bioretention and rain gardens, and enhance existing wetland areas and stream buffers to maintain groundwater recharge areas.**
- **Encourage protection of land along high quality waters and in headwater areas of high quality watersheds, especially Mattawoman Creek and Piscataway Creek, both of which contain Tier II waters.**
- **Evaluate applicability of tributary strategies in Subregion 5 during development review of new projects.**
- **Reduce or eliminate any potential flood hazards and prevent future flood hazards caused by new development and increased imperviousness.**
- **Protect and preserve existing forests and wetlands through existing land conservation and protection programs.**
- **Maintain, to the maximum extent practicable, the natural hydrologic patterns during development.**
- **Complete stream corridor assessments for all watersheds in the subregion in support of the countywide watershed restoration efforts.**

Opportunities to encourage the restoration and enhancement of water quality with the development of the subject property, and maintaining natural hydrologic patterns to the maximum extent practicable are discussed in the Environmental Review section.

**C. Watersheds
Policies**

- **Ensure that, to the extent that is possible, land use policies support the protection of the Mattawoman Creek and Piscataway Creek watersheds.**
- **Minimize impervious surfaces in the Developing Tier portion of the watershed through use of conservation subdivisions and environmentally sensitive design and, especially in the higher density Brandywine Community Center, incorporate best stormwater design practices to increase infiltration and reduce run-off volumes.**

This PPS is located outside of the Brandywine Community Center Core and Edges. The preliminary plan is located with the Mattawoman Creek Special Conservation Area (SCA) where stringent review for the protection of the watershed and regulated environmental features is appropriate. The impervious surface area proposed are appropriate for the development patterns allowed under the M-X-T zoning. The sensitive environmental features of the site associated with the hydrology will be protected to the fullest extent

possible through the preservation, conservation and enhancement of the PMA. Best management practices will be applied to stormwater management design consistent with County regulations.

Short Term

- **Rezone property in the Rural Tier to the lowest density, as recommended in Chapter IV, to retain forest land, reduce the density of development, reduce the amount of impervious cover and reduce the number of new septic systems.**

The preliminary plan is not located in the rural tier, and was rezoned to M-X-T in the recently adopted SMA to reflect the desired development pattern.

- **Revise the countywide stormwater management ordinance to incorporate revisions in the Maryland Stormwater Design Manual (anticipated in late 2008) and other enhanced stormwater management policies.**

Subtitle 32, the Water Quality Resources and Grading Code, concerning grading, drainage and pollution control; erosion and sediment control; and stormwater management was revised to incorporate revisions contained in the Maryland Stormwater Design Manual and adopted on July 19, 2011.

- **Designate the priority preservation area per the recommendations in Chapter IV. Three areas are proposed, including portions of the Mattawoman Creek watershed in Subregion 5 and two areas west of MD 210 (Map V-3, page 85). A priority preservation area (PPA) is one where strong land use policies and preservation efforts ensure that development does not convert or compromise agricultural or forest resources.**

The current application is not located in a Priority Preservation Area identified in the Subregion 5 Master Plan or in the 2012 *Approved Priority Preservation Area Functional Master Plan* (PPA).

Ongoing

- **Incorporate stormwater management best management practices, especially in the future Brandywine center, to increase infiltration and reduce run-off volumes.**

The subject site is not located within the Brandywine Center. Application of best management practices for stormwater management adopted in Subtitle 32 is the responsibility of the Department of Permitting, Inspections and Enforcement (DPIE). Stormwater management is discussed in the Environmental Review section.

- **Work with landowners to permanently preserve land in the Mattawoman watershed through existing land conservation programs.**

The site is not appropriate for permanent preservation based on the approved zoning and the availability of public water and sewer. The on-site PMA will be preserved to the fullest extent possible, and woodland conservation provided on-site or off will be placed into perpetual protection. All off-site woodland conservation requirements for the site should be met within the Mattawoman Creek watershed to off-set the loss of woodland within the SCA.

E. Air Quality and Green House Gas Emissions Policies

- **Promote “climate-friendly” development patterns through planning processes and land use decisions.**

The site is zoned M-X-T, which is intended as a mixed-use zone combining commercial, office and residential uses, promoting a dense mixed development and climate-friendly development patterns. The role of the development review process is to achieve a balance between density based on zoning and protection of environmentally sensitive areas as required with the approval of the CSP, which includes this PPS.

F. Green Building and Energy Efficiency Policy

- **Encourage the use of green building techniques that reduce resource and energy consumption.**

The use of green building techniques and energy conservation methodologies techniques is strongly encouraged, and reviewed at future development stages (Detailed Site Plan) when architecture is proposed.

G. Noise Intrusion Policies

- **Ensure that excessive noise-producing uses are not located near uses that are particularly sensitive to noise intrusion.**

Noise models employed by Environmental Planning Section (EPS) identified noise intrusion on areas proposed for residential development. This was confirmed by Phase 1 noise studies submitted by the applicant. The area of this PPS is not impacted by adverse noise intrusions.

- **Provide for adequate setbacks for development exposed to existing and proposed noise generators and roadways of arterial classification or greater.**

- **Provide for the use of noise reduction measures when noise issues are identified.**
- **Require development within DNL 65 dBA and greater noise exposure areas to be properly protected from the transmission of noise with barriers that affect sound propagation and/or the use of sound absorbing materials in construction.**
- **Work with the Maryland State Highway Administration to ensure that as state roads such as MD5 and US 301 are upgraded appropriate noise reduction measures are incorporated into the roadway design.**

A Phase 2 noise study was submitted with the prior preliminary plan application (4-11004). Noise impacts and appropriate mitigation measures related to US 301 and to the Andrews Air Force Base are not applicable to the current application.

The protection of environmental features proposed on the preliminary plan and Type 1 Tree Conservation Plan is in general conformance with the guidance provided by the master plan, but will warrant further evaluation with future development stages. Impacts to regulated environmental features of the site are addressed in the Environment Review section.

Conformance with the 2005 Approved Countywide Green Infrastructure Plan

The site contains Regulated Areas, Evaluation Areas, and Network Gaps identified in the 2005 *Approved Countywide Green Infrastructure Plan*. The preliminary plan and TCP1 show the preservation of the Regulated Areas and areas adjacent to Regulated Areas, and provides general conformance with the Green Infrastructure Plan to the extent possible at this developmental phase. Reviews during future development phases will provide more detailed evaluations of conformance with the Green Infrastructure Plan.

The Mattawoman Creek Stream Valley was designated as a Special Conservation Area in the Green Infrastructure Plan because its associated stream basin is among the most productive finfish spawning and nursery streams in the entire Chesapeake Bay region. The quality of the water entering the stream systems in the watershed is of particular concern, and when Evaluation Areas occur within the watershed, woodlands should be preserved adjacent to streams to widen the riparian buffers and protect water quality, as discussed in this finding.

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

The TCP1 generally conforms to the 2005 *Approved Countywide Green Infrastructure Plan* in that it preserves existing woodlands in priority areas on-site, and proposes afforestation to widen the stream buffer in priority areas on-site within Evaluation Areas. Provision of the threshold on-

site, when priority areas for conservation exist on a site, is a minimum standard of review. Opportunities to maximize on-site woodland conservation are discussed further.

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

Preservation of water quality will be provided through the protection of the primary management area stream buffers and the application of best stormwater management practices for stormwater management. A Stormwater Management Concept Approval Letter and associated plan have been received (15615-2014-00) which expires on August 15, 2017. The location of stormwater management features has been included on the plans.

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

The TCP for the subject property shall demonstrate that the requirements of the Woodland and Wildlife Habitat Conservation Ordinance are provided on-site through preservation and/or afforestation to the fullest extent possible, consistent with the desired pattern of development and densities indicated in the General Plan. If off-site mitigation is approved by the Planning Board, it shall be provided within the Mattawoman subwatershed.

Conformance with the 2009 Approved Countywide Master Plan of Transportation

Review for consistency with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the US 301 Upgrade Option is generally the role of the Transportation Planning Section. Review of noise impacts related to transportation and Special Roadways is the responsibility of the Environmental Planning Section.

The preliminary plan and TCP1 are required to show the ultimate public rights-of-way associated with the subject property (both state and county) in conformance with the transportation improvements approved with the Subregion 5 Master Plan, the Master Plan of Transportation, and the US 301 Upgrade Option so that noise impacted areas can be identified for mitigation, and the provision of woodland conservation and impacts to regulated features can be evaluated. An evaluation of noise impacts on proposed residential structures is discussed in the Environmental Review section.

Special Roadways

Brandywine Road was designated an historic road in the MPOT (2009). Conservation and enhancement of these specially designated roadways is intended to provide safe and enjoyable travel, while preserving the scenic and historic resources both within the rights-of-way and on adjacent land. It is also necessary that all road designs and construction provide, insofar as practicable, a consistently safe but visually varied environment that is pleasing to all road users and adjacent property owners.

An Inventory of Scenic and Historic Features for the segment of Brandywine Road adjacent to the overall Stephen's Crossing development was submitted and previously evaluated with 4-11004. The current application for Outlot W is not within the viewshed of the designated historic road.

Conformance with the 2010 Water Resources Functional Master Plan

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 county wide 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, floodplain and woodland conservation, and programs implemented by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), Prince George's County Department of Health, Prince George's County Department of the Environmental (DoE), Prince George's Soil Conservation District, Maryland-National Park and Planning Commission (M-NCPPC) and Washington Suburban Sanitary Commission (WSSC) are also deemed to be consistent with this master plan.

Conformance with Previous Zoning Approvals

The rezoning of the property to M-X-T granted in the SMA, supersedes all previous zoning approvals. The zoning change was consistent with the 2002 General Plan's designation of the Brandywine area as a future community center, and the Brandywine concept plan envisioned this property as a mix of commercial, employment, and light industrial uses.

Conformance with Previous Preliminary Plan Approval Conditions

All prior conditions of preliminary plan approval 4-11004 will be superseded by approval of the subject PPS 4-15011. Conditions have been brought forward with this application as appropriate.

Conformance with CSP-09003-01

On July 19, 2012 the Prince George's County Planning Board approved Type 1 Tree Conservation Plan TCP1-084-90-01, and Conceptual Site Plan CSP-09003-01 subject to the following conditions contained in PGCPB Resolution No. 12-76 which are environmental in nature:

3. **At the time of any development application for the subject property not limited to infrastructure, with frontage on historic Brandywine Road, appropriate landscape treatment for the historic road adjacent to the right-of-way shall be provided.**
 - e. **The bearings and distances shall be shown on all property boundary lines.**
 - f. **The revised plan shall be signed and dated by the qualified professional who prepared it.**

The revisions were made with the certification of CSP-09003.

3. At the time of preliminary plan of subdivision, the following issues shall be addressed, or information shall be provided:

- f. A TCP1 consistent with the scale of the preliminary plan, and at a scale no greater than one inch equals 100 feet.**

The scale of the TCP1 submitted with the current application is consistent with the scale of the preliminary plan.

- g. A detailed statement of justification for the proposed removal of any specimen trees. The justification shall be provided separately for each tree, with the exception of those that can be grouped together based on certain similarities.**

A variance application and statement of justification for the removal of one specimen tree located on Outlot W has been submitted and is evaluated with the current application, and is recommended for approval.

- h. The preliminary plan application package shall contain a revised statement of justification for the proposed impacts to regulated environmental features.**

A revised statement of justification for the additional impacts proposed on Outlot W to regulated environmental features was submitted with the current application, and are supported.

- i. An approved revised stormwater management concept plan and letter which reflects the most recent revision to the delineated primary management area on the west side of Mattawoman Drive. The revised stormwater concept plan shall show the same site layout as the preliminary plan and its associated TCP1.**

A Stormwater Management Concept Approval Letter and associated plans (15615-2014-00) were submitted with the application which reflects the PMA and regulated environmental features on the west side of the PPS and adjacent to Missouri Avenue.

- j. A copy of the erosion and sediment control concept plan.**

A copy of the Concept Grading, Erosion and Sediment Control Plan (#118-13) for the site has not been submitted. A copy of that plan shall be submitted for the file.

- k. A Phase II noise study shall be submitted that addresses noise impacts on residential, or potential residential use areas, and the necessary mitigation methods which reflect the “worst case” noise impact scenario for Robert Crain Highway (US 301).**

A Phase II noise study that addressed noise impacts on residential units was submitted with the previous preliminary plan. There are no transportation related noise impacts to Outlot W. A copy of the previous study shall be submitted for the file.

- n. Supplemental forest stand delineation information shall be submitted on the extent of invasives in the herbaceous/woody layer of Forest Stand 3, including location, species, and areas identified on-site. The information shall be prepared by a qualified professional and be sufficient to determine if an invasive species management plan is indicated at the time of Type 2 tree conservation plan (TCP2) review.**

Supplemental forest stand delineation information was submitted on the extent of invasives in the herbaceous/woody layer of Forest Stand 3, which includes Outlot “W.” Three primary invasive species were located through-out the stand: multiflora rose, barberry and Japanese stiltgrass, with stiltgrass posing the largest problem. Multiflora rose and barberry are more easily managed and eradicated. An invasive species management plan is indicated at the time of Type 2 tree conservation preparation for Stand 3, which includes Outlot W.

- 20. The Type 1 tree conservation plan (TCP1) and all future TCPs shall demonstrate that the woodland conservation requirement has been provided on-site to the greatest extent possible by providing on-site, at a minimum, the total of the woodland conservation threshold plus the portion of the one-quarter-to-one replacement required for clearing above the threshold.**

This condition incorrectly indicated a higher woodland conservation requirement than what was intended at the time of review of the TCP1. The “one-quarter-to-one” should have instead been for “woodland cleared below the woodland conservation threshold.” This correction was made with the approval of PPS 4-11004 (PGCPB Resolution No. 14-110(C)) and Type 1 Tree Conservation Plan TCP1-007-12-01.

Environmental Review

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

A revised Natural Resource Inventory, NRI-047-08-05, was approved in May 29, 2015 increasing the areas of wetlands and wetland buffers in the vicinity of Outlot W.

When the Department of Parks and Recreation presented a plan for the SAARC located on the north side of Cattail Way, and which shares frontage along that road with the current application a separately approved NRI for that site (NRI-124-12) indicated that there were wetlands and wetland buffers on extended on both side of Cattail Way. Subsequently, the presence and delineation of nontidal wetlands and buffers on Outlot A was confirmed by a certified wetlands delineator. Prior to certification of the previous preliminary plan, the NRI was revised to delineate additional nontidal wetlands and wetland buffers located on both sides of the Cattail Way right-of-way at the intersection with Missouri Avenue.

The current preliminary plan and TCP1 correctly reflect the environmental features of NRI-047-08-05, including the additional wetlands and wetland buffers.

There were extensive Primary Management Area (PMA) located on the overall site comprised of streams and wetlands, associated buffers, 100-year floodplain and adjacent steep slopes. The Forest Stand Delineation (FSD) indicates the presence of three forest stands totaling 123.45 acres of the gross tract area acres and 56 specimen trees. Stands 1, 2, and 3 are mid-successional mixed hardwood forest.

There was previously a conflict on the eastern portion of the site between the placement of lots and roadways and the newly delineated wetlands. These impacts were not previously identified, were not requested in the Statement of Justification for Impacts to Regulated Environmental Features, and were not evaluated under the previous application.

In a letter dated August 26, 2014, the applicant consultant requested to place this portion of the site in an outlot, which would be subject to a detailed wetland delineation, updated NRI, revised layout and revised TCP1 at time of preliminary plan.

The Environmental Planning Section supported the proposal for Outlot W as shown on applicant's exhibits so appropriate evaluation of the regulated environmental features and proposed impacts could occur with a future PPS. The current PPS and revised TCP1 application address this concern.

Nontidal wetlands and buffers were found to occur on this property. These features were not included in the PMA, but connect to a hydrologic system located north of proposed Cattail Way, and east of Missouri Avenue.

In the Environmental Technical Manual, Part C, Section 2.0 "Streams and nontidal wetlands and their associated buffers, and isolated nontidal wetlands and their associated buffers (collectively referred to as "regulated environmental features"), are required by the Zoning Ordinance and the Subdivision Ordinance to be preserved in and/or restored to a natural state to the fullest extent possible." Nontidal wetlands and wetland buffers are also subject to regulation by the USACOE and the Maryland Department of the Environment permitting requirements. A wetland permit is currently being processed by the MDE.

The current application proposes to subdivide Outlot W into 56 townhouse lots. A revised statement of justification for impacts to regulated environmental features dated June 8, 2015 was submitted, with an exhibit showing additional impacts (Area 13) to address construction within the dedicated Cattail Way right-of-way and proposed development on Outlot W. Impacts to regulated environmental features totaling 1.42 acres; permanent impacts to 0.914 acres of wetlands and 0.502 acres of wetland buffers.

Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for stormwater management facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. Stormwater management outfalls may also be considered necessary impacts if the site has been designed to place the outfalls at points of least impact.

The types of impacts that can be avoided include those for site grading, building placement, parking, stormwater management facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code. Impacts to regulated environmental features must first be avoided and then minimized. The statement of justification must address how each impact has been avoided and/ or minimized.

Description of Regulated Environmental Features On-site

The overall site (CSP-09003) contains a total of 43.82 acres of PMA. The PMA comprises approximately 6,676 linear feet of regulated streams (ephemeral, intermittent, and perennial) and associated 75-foot-wide buffers, as well as wetlands, wetland buffers, floodplain, and areas of steep slopes.

Specific Descriptions of Proposed Impacts, Justification of Avoidance and Minimization

The area of impacts associated with Outlot W (Area 13) is for the construction of Cattail Way. Under 4-11004 an impact of 0.83 acres of wetland and 0.22 acres of wetlands was proposed based on preliminary wetland mapping. This included impacts within and outside of the right-of-way. A large isolated upland, wetland area is located within the right-of-way that has been dedicated for Cattail Way. In order to construct Cattail Way and the associated walks and trails, wetlands will be impacted. The grading of the road side slopes and cross section of the walks and trails has been modified to provide the narrowest possible impact area through this portion of the project. The road location has been set based on the configuration of the master planned road network and the need to line up Cattail Way with the existing roads that have been established. In addition, an entrance to Outlot W must be created off of Cattail Way, and coordinated with DPR so that the entrance to Outlot W relate to the entrance to the Aquatic Center proposed on the north side of Cattail Way. Subsequent to the approval of 4-11004, the consultant surveyed the wetlands areas, which have been shown on an approved revised NRI.

The PPS for Outlot W has been prepared taking these wetlands into account. The impacts for the construction of Cattail Way and the proposed site entrance total 61,700 square feet (1.42 acre) of wetlands and buffers. This includes 1.13 acres of wetland and buffers within the right-of-way and 0.29 acres outside of the right-of-way. The Planning Board **approves** of the PMA impact.

Mitigation

Once impacts have been minimized, compensatory mitigation involves actions taken to offset unavoidable adverse impacts to waters of the U.S., including wetlands, streams and other aquatic resources (aquatic sites) authorized by Corps permits. Compensatory mitigation may involve the restoration, enhancement, establishment (creation), and/or the preservation of aquatic sites. The three (3) mechanisms for providing compensatory mitigation are: Mitigation banks; payment of in-lieu fee of mitigation; or applicant responsible mitigation. These options are being explored with the associated agencies as part of the permitting process.

Final determination of appropriate minimization and mitigation will be made and enforced by the permitting agencies, and the County defers to the State for the regulation of wetland and wetland buffers which fall outside of the Primary Management Area.

The EPS is concerned about retaining adequate hydrology on Parcel U-7 to maintain a wetland system after Cattail Way is constructed, which will isolate a portion of the wetlands from the remainder of the system. Without adequate connectivity to the remainder of the wetlands system, and periodic input of water, the system will not be sustainable.

The conceptual SWM plans indicate no contribution of stormwater into the system, in fact, water is gathered in small bioretention areas, removed from the site by a pipe connecting to a local stormwater pipe. Sustaining the existing forested wetland system will require careful attention to hydrologic inputs and connectivity in technical design. EPS has consulted with the Stormwater Management Section of DPIE, and have reached an agreement that maintaining hydrologic connections will be considered in the technical stormwater management review and future development applications on both sides of the roadway, and in the design of the roadway section.

This overall site is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance.

A Type I Tree Conservation Plan (TCPI-007-12) was approved for the overall site with CSP-09003, and there have been two subsequent revisions.

TCP1-007-12 covers a 169.34-acre property. The site contains 89.88 acres of upland woodlands and 33.05 acres of wooded floodplain. The TCP1 proposes clearing 77.10 acres of the upland woodlands, 0.63 acres of wooded floodplain, and 1.90 acres of off-site clearing. Previously dedicated rights-of-way have been included in the net tract area, because they were included in the previous TCPI approval. Based upon the clearing proposed, the total woodland conservation requirement for the development as currently proposed is 45.58 acres.

The TCP1 proposes to meet the requirement with 12.71 acres of on-site preservation, 13.49 acres of on-site afforestation/reforestation, and 0.42 acres of Specimen/Historic Tree Canopy Credit and 19.94 acres of off-site woodland conservation with first priority in the Mattawoman subwatershed, for a total of 46.56 acres of woodland conservation provided.

The priorities for woodland conservation are contained in Section 25-121(b) and include, in the order listed: land within the designated network of the Green Infrastructure Plan, critical habitat areas, and contiguous wooded areas as the top three priorities. Because much of the site is located within a designated Evaluation Area of the Countywide Green Infrastructure Plan, and within the watershed of Mattawoman Creek, a designated Special Conservation Area, and woodland conservation should be provided on-site to the greatest extent possible. Preservation of existing woodlands is the highest priority, but additional afforestation on-site in priority areas, to widen stream buffers and protect sensitive environmental features, is also a high priority. Because the subject property contains areas within the green infrastructure network which are the highest priority for preservation, additional opportunities to meet the woodland conservation requirement on-site should be evaluated.

At time of CSP, EPS proposed increasing the on-site woodland conservation requirement to be the sum of the woodland conservation threshold requirement and the replacement requirement for on-site clearing below the threshold, and TCP1-007-12 was certified with the following note:

“Note: The minimum on-site woodland conservation requirement is the woodland conservation threshold plus replacement for clearing below the threshold.”

This minimum is also reflected in a line in the woodland conservation worksheet which calculated the more stringent minimum on-site requirement for this project.

The revised tree conservation plan has been reviewed for consistency with this requirement. The minimum on-site woodland conservation requirement has been calculated as 25.35 acres, and the plan as submitted provides 26.20 acres of on-site woodland conservation. The revised TCP1 is in conformance with the requirements of the Environmental Technical Manual and TCP1-007-12 as previously revised with no revisions.

Effective September 1, 2010, TCP applications were required to meet of the requirements of Subtitle 25, Division 2 which includes the preservation of specimen, champion and historic trees, every reasonable effort should be made to preserve the trees in place.

After careful consideration has been given to the preservation of the specimen trees and 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 Subtitle 25 provided all of the required findings in Section 25-119(d) can be met and the request is not less stringent than the requirements of the applicable provisions of COMAR.

The specimen tree table on the TCP1 shows 56 specimen trees associated with the project area, and eighteen trees proposed to be removed. One of the specimen trees (ST-46) proposed for removal is located on Outlot W. Review of the variance for the removal of ST-46 was deferred until submittal of the current application. A Subtitle 25 Variance Application and a statement of justification for the removal of one specimen tree located in Outlot W were received by the Development Review Division on October 8, 2015. ST-46 is a 31-inch dbh *Quercus phellos* (willow oak) in fair condition with structural defects.

The statement of justification submitted with the current application describes the need for a developable area to meet the anticipated development pattern of the M-X-T zone, construction of stormwater management and poor construction tolerance.

Variance

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 removal of one on-site specimen trees.

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

The subject property is Outlot W and the abutting the dedicated right-of-way for Cattail Way. The subject tree (ST-46) is located in a wetland buffer area, within 20 feet of the dedicated right-of-way, most which is also located in wetland. The construction of the roadway in close proximity to the specimen tree will require two to four feet of fill, grading, impacts to the critical root zone and changes to the hydrology of the area which would be stressful to a tree that is already in fair condition. In conjunction with this project, the developer has agreed to construct needed infrastructure for the Brandywine area, including the construction of two master planned roads (Mattawoman Drive and Cattail Way). Redesign of the site layout to save one specimen tree in fair condition and which has poor construction tolerance would be a special hardship to the applicant in the development of the site.

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

The statement of justification indicates that the clearing of forested areas for the purposes of development is a right commonly enjoyed by other developers as long as the clearing was done in accordance with the Woodland Conservation Ordinance and Environmental Technical Manual, The developer has made every effort to limit the clearing for this project and is providing 2.5 times the canopy coverage required for the property.

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

The statement of justification states that no special privilege would be conferred by granting the variance and that all other applicants have the right to request a variance to remove specimen trees should they prove special circumstances exist that merit their removal.

The applicants request for variance for the removal of specimen trees does not confer any special privilege beyond that granted by the zoning of the property, and the development proposed is in accordance with all other development requirements.

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

The statement of justification indicates that neither the presence of specimen trees, nor the wetland is the result of actions by the applicant, and that the existing conditions and circumstances on the site are also not the result of actions by the applicant. Staff finds that the need for the variance is largely based on the existing conditions of the site, and is 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

The statement of justification indicates that the request to remove one specimen tree is not related to a land or building use on a neighboring property. Staff agrees that the request to remove the trees does not arise from any condition on a neighboring property.

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

The statement of justification states that stormwater management will be provided and water quality will be addressed in accordance with County guidelines. Staff agrees that water quality will not be adversely impacted if the site is developed in accordance with County water quality regulations. The required findings of Section 25-119(d) have been adequately addressed and the Planning Board **approves** of the removal of one specimen tree ST-46.

Section 25-122(d)(1)(B) requires that woodlands preserved, planted or regenerated in fulfillment of woodland conservation requirements on-site be placed in a woodland conservation easement recorded in the land records. The recordation of a woodland conservation easement is required prior to the signature approval of a TCP2 for a development application that includes on-site woodland conservation areas.

Prior to grading of the site, the County requires the approval of a Grading, Erosion and Sediment Control Plan. The Tree Conservation Plan must reflect the ultimate limits of disturbance not only for installation of permanent site infrastructure, but also for the installation of all temporary infrastructure including erosion and sediment Control measures associated with grading.

The soils found to occur according to the Web Soil Survey include the Aquasco, Beltsville, Downer-Hammonton, Ingleside, Lenni and Quindocqua, Leonardtown, Potobac and Woodstown series. The majority of these soils have been identified as having limitations for development due to impeded drainage and high or perched water tables. No Marlboro clays are found to occur in the vicinity of the property. This information is provided for the applicant's benefit, and may affect the architectural design of structures, grading requirements, and stormwater management elements of the site. DPIE may require a soils report in conformance with CB-94-2004 during the permit process review.

Policies contained in the General Plan call for the reduction of adverse transportation noise impacts to meet State of Maryland noise standards. Noise is generally regulated along roads with a classification of arterial or higher, where residential uses are proposed. Outlot W is not located within the noise corridor of a road with a classification of arterial or higher.

Brandywine Road (MD 381) was designated in the Subregion V Master Plan (1993) as a historic road. The current application has no frontage on, nor is it visible from Brandywine Road.

In the Natural Environment section of the General Plan, Policy 6 calls for the reduction of overall sky glow, minimizing of the spill-over of light from one property to the next, and a reduction of glare from light fixtures. This is of particular concern on a mixed use site such as the subject application, because the residential uses could be directly impacted by the lighting from the other uses and because it located adjacent to environmentally-sensitive areas. The proposed lighting should use full cut-off optics to ensure that off-site light intrusion into residential and environmentally sensitive areas is minimized, and so that sky glow does not increase as a result of this development.

Summary of Recommended Findings and Conditions

The Environmental Planning Section recommends approval of Preliminary Plan 4-15011 and TCP1-007-12-02, and a variance to Section 25-122(d)(1)(B) subject to conditions.

19. Urban Design—Conformance with Previous Approvals

The subject property was originally part of Preliminary Plan of Subdivision 4-90045, Brandywine Business Park, which was approved by the Prince George's County Planning Board on May 31, 1990 (PGCPB Resolution No. 90-230). Subsequently, final plats were recorded pursuant to that approval for the entire business park area. The 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan and SMA) rezoned the subject property from the I-1 Zone to the M-X-T Zone.

The M-X-T Zone requires that a conceptual site plan (CSP) and a detailed site plan (DSP) be approved for all uses and improvements. CSP-09003, was approved by the Planning Board on February 6, 2014 with 24 conditions (PGCPB Resolution No. 14-09). The following conditions of the CSP approval are relevant to the urban design review of the subject application:

3. At the time of preliminary plan of subdivision, the following issues shall be addressed, or information shall be provided:

a. Provide proper turnarounds or connections for all private and public streets.

The submitted PPS provides turnarounds or connections for all streets. The lot layout in this area has changed from what was shown on the CSP due to the wetlands in the northeast corner of the site. The CSP showed lots fronting the entire length of Cattail Way, and then a loop of townhouse lots looking on a central green space at the southern end. The current proposed lot layout still maintains a row of townhouses fronting on Cattail Way, outside of the wetlands, but then the remainder of the site is divided into two dead end private streets.

b. Provide adequate spacing between the proposed stormwater management ponds and townhouse lots in the southern section of the site.

The submitted PPS and TCP1 provide adequate spacing around the proposed stormwater management pond and townhouse lots in the southern section of the site. However, this issue will need to be closely examined at the time of DSP once a final grading plan is submitted. Therefore, staff recommends that a condition be added to allow for sufficient space between the proposed stormwater pond and the townhouses for a path and seating for future residents to observe the pond and associated wildlife as part of the open space component for the development.

d. Long blocks of structures shall, where feasible, be broken into smaller blocks with roads, paths, and/or green space.

The submitted PPS breaks up long blocks of structures, wherever feasible, as the longest block of townhomes is 12 units.

4. At the time of detailed site plan (DSP), the following design issues shall be addressed:

A list of issues was identified with the CSP approval that is required to be addressed at the time of DSP. While they are not required to be addressed on the preliminary plan, the following conditions all involve spatial relationships that are considered now in order to ensure conformance at the time of DSP.

b. The applicant shall consider setting aside space for a community garden.

There appears to be an HOA parcel that could be used for a community garden by future residents. However, this issue will have to be examined further at the time of DSP when final grading and utility placement are determined.

- j. **No rear elevations of residential buildings shall be oriented towards Mattawoman Drive or Cattail Way. Any side elevations of residential buildings highly visible from Mattawoman Drive or Cattail Way shall be designed with the same attention to detail as the front elevation.**

All proposed lots are oriented such that no rear elevations will abut Mattawoman Drive or Cattail Way. The rear of Lots 47–56 are setback from Cattail Way, where there are intervening existing wetlands and woodlands that are to remain. Residential building design will be examined further at the time of DSP. Architecture may be required that addresses highly visible side elevations.

- s. **All single-family attached or two-family attached dwelling units shall be set back a minimum of 30 feet from the right-of-way of Cattail Way (C-610). This setback shall include a 20-foot-wide landscaped area with enhanced landscaping treatments.**

The submitted PPS provides a deep lot configuration for the single-family attached along Cattail Way that accommodates this setback. This issue will be further examined for conformance at the time of DSP.

- v. **Provision of sufficient visitor parking spaces evenly distributed among the townhouse development areas.**

Some pull-in visitor parking is shown in the center of the pod of development. There appears to be sufficient opportunities for visitor parking; however, this issue will be examined further at the time of DSP by analyzing the provision of two-car garages and surface parking for the development.

The subject property was part of Preliminary Plan of Subdivision 4-11004, Stephen's Crossing at Brandywine, which was approved by the Prince George's County Planning Board on October 2, 2014 (PGCPB Resolution No. 14-110(C)). Late in the review of PPS 4-11004, an area of wetlands was identified that had not previously been known and that impacted the subject property. There was insufficient time to fully evaluate the wetlands and proposed disturbances to it at that time as it related to the proposed lotting pattern. Therefore, the applicant proposed the creation of Outlot W until such time as a new PPS could be submitted and the lotting pattern reviewed to include the new wetland area and any disturbances. This was memorialized in conditions of approval of PPS 4-11004 and the subject application has been submitted accordingly.

Conformance with the Requirements of the Zoning Ordinance

The subject proposal in the M-X-T Zone also requires DSP approval. Prior to final plat, the applicant should obtain a DSP approval for the proposed development.

Development in the M-X-T Zone is required to have direct vehicular access to a public street in accordance with Section 27-548(g) as noted below:

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

The subject site fronts on two existing public rights-of-way including Missouri Avenue to the east and Cattail Way to the north. Eleven lots (13–23) shown on the PPS do not show frontage on and/or direct access to a public or private street. However, in accordance with Subtitle 24 access and circulation is being provided as discussed further.

Conformance with the 2010 Prince George's County Landscape Manual

Pursuant to Section 27-548 of the Zoning Ordinance, landscaping, screening, and buffering within the M-X-T Zone shall be provided pursuant to the provisions of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Conformance with the requirements of the Landscape Manual will be determined at the time of DSP review. However, the following specific requirement is relevant to this subdivision review.

In accordance with Section 4.6, a planted buffer, either on the lots or in a common open space, is required between the rear yards of single-family attached dwellings and a street. The required width of this buffer varies from 20 to 75 feet relative to the classification of the street, with alleys excluded. Given the reduced size of the townhouse lots, staff would recommend that the full width of this required buffer be provided outside of the lots in order to allow for sufficient usable outdoor space on each lot. Staff worked with the applicant during the review process to ensure the appropriate distance was being provided wherever possible. However, Lot 12 still does not provide the required buffer outside of the lot. This area will have to be examined further at the time of DSP, when detailed architecture and landscaping plans are available. If the requirements cannot be met, the applicant will be required to either obtain approval of an Alternative Compliance application or remove the lot.

Tree Canopy Coverage Ordinance (TCC)

The Tree Canopy Coverage Ordinance requires ten percent tree canopy coverage for properties in the M-X-T Zone. The subject 7.12-acre property must provide 0.71 acres of site area covered by tree canopy. This requirement can be met either through the preservation of existing trees, proposed on-site landscaping, or a combination of both, and will be evaluated at the time of DSP.

Other Design Issues

Adequate space between townhouse sticks serves multiple purposes, such as allowing homeowners access to their front and rear yards, allowing access for utility maintenance and provision of landscaping. Staff worked with the applicant, during the review of the original PPS 4-11004, to ensure a minimum of eight feet is provided between lot lines, the proposed lot layout provides this dimensional requirement.

This development has the potential of integrating green building techniques at both the site and building levels. The applicant should explore these opportunities and provide information on sustainability, to the extent practical, at the time of DSP review.

20. **Variation—24-128(b)(7)(A):** The PPS proposes townhouse lots that front on interior private streets that are served by private alleys. The applicant filed a variation request from Section 24-128(b)(7)(A) of the Subdivision Regulations to allow the use of alleys to serve townhouse lots that front on private streets instead of public streets as required. Section 24-128(b)(7)(A) states:

(b) The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:

(7) In Comprehensive Design and Mixed Use Zones:

(A) For land in the V-L, V-M, R-L, R-S, R-M, R-U, M-U-I, L-A-C, M-A-C, M-X-C, M-U-TC, and M-X-T Zones, the Planning Board may approve a subdivision (and all attendant plans of development) with private roads to serve attached single-family dwellings, two-family dwellings, and three-family dwellings, but not single-family detached or multifamily dwellings, in accordance with the requirements of Subsections (e) and (f) of Section 27-433 of the Zoning Ordinance, except as hereinafter provided. In all of the above zones, and in the R-R Zone when developed as a cluster subdivision, the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way. The District Council may disapprove the inclusion of alleys during the consideration of the detailed site plan for a cluster subdivision. For the purposes of this Section, an “alley” shall mean a road providing vehicular access to the rear or side of abutting lots, and which is not intended for general traffic circulation.

The applicant is asking for relief from this requirement to allow townhouse lots which are served by alleys to have frontage on private rights-of-way and open space instead of public rights-of-way. Eleven (11) lots do not conform to this requirement (Lots 13–23).

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of a variation request. The applicant has filed a variation from Section 24-128(b)(7)(A), which was submitted October 6, 2015 and heard on at the SDRC meeting on October 23, 2015 as required by Section 24-113(b).

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

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

Approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Strict compliance with the requirements of Section 24-128(b)(7)(A) could result in a practical difficulty. The applicant's proposal cannot provide the density envisioned without alternative on-site circulation. The ability to develop rear-loaded garage townhouse units on private streets is appropriate in this case, due to the density and configuration of the developable area, and is consistent with the previous CSP and PPS approvals.

- (1) **The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The use of alleys to serve garage units is encouraged in dense environments. The current plan has the entire residential development served by private streets. The private streets in this case are being constructed to a standard that is adequate to support the development as analyzed by the Transportation Planning and Urban Design sections. The only change to this standard is the ownership of the street, the homeowners association (HOA) in this case, which is not injurious to the health, safety, or welfare of the users.

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

The applicant contends that the loss of units, which would result from the need to provide public rights-of-way within the site, constitutes a particular hardship because the applicant could not develop to the density envisioned when the property was rezoned to the M-X-T and the use was approved for residential townhouses. The expectation of the amount of development that could occur on this property based on the zoning, is a situation which is unique to this property and not generally shared by other properties that are outside the limits of the CSP.

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

The variation to Section 24-128(b)(7)(A) is unique to the Subdivision Regulations and is not regulated by any other law, ordinance, or regulations. Therefore, granting the variation will not violate any other legal requirement.

- (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 regulation is carried out.**

The uniqueness of the property is imposed by the fact that the property has limited space to develop in and is completely surrounded by existing and platted rights-of-way, and environmental constraints. The property is bounded on the north and east by existing and platted rights-of-way, and immediately to the south and west is PMA.

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

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

Based on the preceding findings the Planning Board approves of the requested variation from Section 24-128(b)(7)(A) of the Subdivision Regulations for 11 lots.

21. At the public hearing on December 3, 2015, the Planning Board approved revisions to Conditions 1(c), 1(d), and 24 and added Condition 39; (Applicant's Exhibit #1), which are incorporated into this resolution.

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 Bailey, seconded by Commissioner Shoaff, with Commissioners Bailey, Shoaff, Geraldo and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, December 3, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of January 2016.

†This is to certify that the foregoing is a true and correct copy of the reconsideration action taken by the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission on the motion of Commissioner Bailey, seconded by Commissioner Doerner, with Commissioners Bailey, Doerner, Geraldo, and Hewlett voting in favor of the motion, and with Commissioner Washington temporarily absent at its regular meeting held on Thursday, February 17, 2022, in Upper Marlboro, Maryland. The adoption of this amended resolution based on the reconsideration action taken does not extend the validity period.

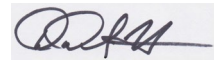
†Adopted by the Prince George's County Planning Board this 10th day of March 2022.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

EMH:JJ:EDC:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: March 7, 2022

†Denotes Amendment

Underlining indicates new language

[Brackets] and ~~strike through~~ indicate deleted language