

R E S O L U T I O N

WHEREAS, Alan Rahimi is the owner of a 0.27-acre parcel of land known as Lots 18 and 19, said property being in the 16th Election District of Prince George's County, Maryland, and being zoned Commercial Office (C-O) within the Development District Overlay (D-D-O) Zone; and

WHEREAS, on April 3, 2018, Alan Rahimi filed an application for approval of a Preliminary Subdivision Plan for eight lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-17025 for Hyatt View was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on June 7, 2018, for its review and action in accordance with the Land Use Article of the Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on June 7, 2018, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan of Subdivision 4-17025, Hyatt View, including a Variation from Section 24-122(a), for eight lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the applicant shall
 - a. Reduce the width of the 20-foot-wide ingress/egress easement to the 18-foot-wide maximum that is required.
 - b. Note that vehicular access is authorized pursuant to Section 24-128(b)(8) of the Subdivision Regulations.
 - c. Note that a Variation from Section 24-122(a) is approved for five-foot-wide public utility easements along the public rights-of-way.
2. A substantial revision to the mix of uses on the subject property that affects Subtitle 24 adequacy findings, as set forth in a resolution of approval, shall require approval of a new preliminary plan of subdivision prior to approval of any building permits.

3. Development shall be in conformance with approved Stormwater Management Concept Plan 43441-2017-00 and any subsequent revisions.
4. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall grant a five-foot-wide public utility easement along all public and private rights-of-way.
5. Prior to approval of any building permits, the plans shall be revised to reflect five-foot-wide sidewalks, a green landscape panel, and appropriate Americans with Disabilities Act ramps along Oglethorpe Street and 44th Avenue, unless modified by the City of Hyattsville.
6. Prior to approval of any building permit for the subject property, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that the following required adequate pedestrian and bikeway facilities, as designated below or as modified by DPW&T/DPIE/DPR, in accordance with Section 24-124.01 of the Subdivision Regulations, have (a) full financial assurances, (b) have been permitted for construction through the applicable operating agency's access permit process, and (c) have an agreed-upon timetable for construction and completion with the appropriate operating agency:
 - a. Provide crosswalk striping at the US 1 (Baltimore Avenue) and Oglethorpe Street intersection.
7. Prior to approval of the final plat of subdivision:
 - a. The applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of parkland dedication.
 - b. A draft Declaration of Restrictive Covenants and/or easement, per Section 24-128(b)(8) of the Subdivision Regulations, over the approved shared access for the subject property, shall be submitted to the Maryland-National Capital Park and Planning Commission for review and approval. The limits of the shared access shall be reflected on the final plat, consistent with the approved preliminary plan of subdivision. Prior to recordation of the final plat, the Declaration of Restrictive Covenants and/or easement shall be recorded in Prince George's County Land Records and the Liber/folio of the document shall be indicated on the final plat, with the limits of the shared access.
 - c. The final plat shall carry a note that vehicular access via shared easement is authorized pursuant to Section 24-128(b)(8) of the Subdivision Regulations.
8. Total development within the subject property shall be limited to a mix of uses that generates no more than 5 AM and 6 PM peak-hour trips. Any development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

9. The Planning Board accepts the applicant's proffer that, prior to submitting an application for a building permit, the applicant shall submit a site plan and architectural details to the City of Hyattsville and shall be required to meet with the City to discuss the permit submission package.

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 currently known as Lots 18 and 19 recorded among the Prince George's County Land Records in Plat Book RBR 2-14. The property is approximately 11,954 square feet and is located at the southeast quadrant of Oglethorpe Street and 44th Avenue, approximately 160 feet west of US 1 (Baltimore Avenue). The site is zoned Commercial Office (C-O) and is within the Development District Overlay (D-D-O) Zone, subject to the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* (Gateway Arts District Sector Plan and SMA). The applicant is proposing eight lots for the development of single-family attached dwelling units (townhomes), which is a permitted use in the Gateway Arts D-D-O Zone. There are no previous approvals which impact the subject site.

The subject site has frontage along Oglethorpe Street and 44th Avenue. Section 24-122(a) of the Subdivision Regulations requires that a 10-foot-wide public utility easement (PUE) be provided along the public road right-of-way. The applicant requests approval of a variation for the width of the PUE. The Prince George's County Planning Board approves the variation, as discussed further.

The Planning Board **approves** the preliminary plan of subdivision (PPS) and variation, with conditions, based on the findings contained in this resolution.

3. **Setting**—The property is located on Tax Map 42, Grid C-4, in Planning Area 68. The site is bounded to the west by 44th Avenue and single-family detached dwellings beyond in the One-Family Detached Residential (R-55) Zone, to the south by a parking lot serving medical offices in the C-O Zone, to the east by commercial retail uses in the Commercial Shopping Center (C-S-C) Zone, and to the north by Oglethorpe Street and multifamily dwellings beyond in the Multifamily High Density Residential (R-10) Zone.
4. **Development Data Summary**—The following information relates to the subject PPS application and the proposed development.

Zone Use(s)	EXISTING	APPROVED
	C-O/D-D-O Single-Family Detached Dwelling	C-O/D-D-O Townhouse Dwelling
Acreage	0.27	0.27
Lots	2	8
Outlots	0	0
Parcels	0	0
Dwelling Units:	1	8
Public Safety Mitigation Fee	No	No
Variance	No	No
Variation	No	Yes (24-122(a))

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on April 20, 2018. The requested variation from Section 24-122(a) was accepted on April 23, 2018 and heard at the SDRC meeting on May 4, 2018, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Community Planning**—In the *Plan Prince George’s 2035 Approved General Plan* (Plan 2035), the subject site is located within the Riverdale Maryland Area Regional Commuter (MARC) Neighborhood Center. The Policies and Strategies section, Table 17, Growth Management Goals, of Plan 2035 indicates that Neighborhood Centers are expected to see an increase in new dwelling units at a rate of 15 percent or 9,450 projected dwelling units, and an increase in new jobs by 15 percent or 17,100 projected jobs (see page 110). Therefore, the addition of these eight dwelling units could help support Plan 2035’s goals for Neighborhood Centers.

The Riverdale MARC Neighborhood Center “Completeness Score” for Plan 2035 Centers is ranked number 5, out of 10 centers evaluated. Complete centers are scored using the following criteria and associated weighting: Market (23 percent); Place (20 percent); Leverage (15 percent); Walkability (15 percent); People (12 percent); Capacity (10 percent); and Transit and Access (5 percent) (see page 279).

Policy 1 of Housing and Neighborhoods is to “Concentrate medium- to high-density housing development in Regional Transit Districts and Local Centers with convenient access to jobs, schools, child care, shopping, recreation, and other services to meet projected demand and changing consumer preferences” (see page 187). The construction of eight (medium-density) townhouses in a local neighborhood center supports Policy 1.

Master/Sector Plan

The subject property is located in the Hyattsville Town Center Character Area of the Gateway Arts District Sector Plan and SMA. The sector plan identifies the following goal for properties located in the town center:

To enhance the walkability of the town centers by creating a framework for high-quality, mixed use, pedestrian-oriented development incorporating human-scale buildings, an attractive streetscape, landscaping and small parks. (see page 135)

Under Land Use Characteristics, the plan notes that the development character of the town center character area “supports both a horizontal and vertical mix of uses (commercial, residential, civic arts, and entertainment)” (see page 136). Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application conforms to the land use recommendation of the sector plan.

6. **Stormwater Management**—The site has an approved Stormwater Management (SWM) Concept Letter and Plan (43441-2017-00) that has been found in conformance with Subtitle 32, Water Resources Protection and Grading Code, by the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE). Proposed SWM structures include porous pavement, a perforated underdrain which feeds into the County stormdrain system, and a fee-in-lieu of providing on-site attenuation/quality control measures.
7. **Parks and Recreation**—In accordance with Section 24-135 of the Subdivision Regulations, the Planning Board requires the payment of a fee-in-lieu of mandatory dedication of parkland because the land available for dedication is unsuitable due to its size, location, and configuration.
8. **Trails**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the Gateway Arts District Sector Plan and SMA to implement planned trails, bikeways, and pedestrian improvements.

The subject site is located within both the designated Riverdale MARC Neighborhood Center and the Baltimore Avenue Corridor and is subject to Section 24-124.01 of the Subdivision Regulations and the 2012 “Transportation Review Guidelines, Part 2” (Guidelines). The bicycle and pedestrian impact study (BPIS) and off-site improvements are discussed further in this finding.

The sector plan includes a number of policies, recommendations, and standards that are applicable to the subject site. The text related to bicycle and pedestrian facilities is noted below.

The Sidewalks, Trails and Bikeways section recommends:

1. **Develop all new roads and retrofit existing facilities within the study area in accordance with the AASHTO Guide for the Development of Bicycle Facilities and guidelines for pedestrian facilities, where feasible.**
3. **Provide sidewalk additions and enhancements as necessary and emphasize the continuity of sidewalks.**

6. Provide or enhance adequate signage, bike lane striping, sidewalks, and traffic-calming measures (if necessary) to the following routes:

f. Oglethorpe Street

The applicant shall reconstruct sidewalks to a five-foot-width along the subject property's frontages of Oglethorpe Street and 44th Avenue, adding a green panel buffer, consistent with the sidewalks in the immediate vicinity to meet current Americans with Disabilities Act (ADA) standards, unless modified by the City of Hyattsville. The applicant shall ensure that all sidewalks along the subject property frontage meet current design standards. Providing the landscape panel will buffer the sidewalk from the roadway and be consistent with the streetscape already constructed along 44th Avenue, south of and across the street from the subject site.

Proposed On-Site Bicycle and Pedestrian Improvements

The subject application is a partially developed site within an established community. Sidewalks exist along the site's frontages of Oglethorpe and 44th Avenue, although neither sidewalk meets current ADA specifications or standards. The applicant shall reconstruct a five-foot-wide sidewalk with a green landscape panel and appropriate ADA ramps along the property frontage, unless modified by the City of Hyattsville. Illustration 31 of the sector plan includes these streetscape elements and is copied below.

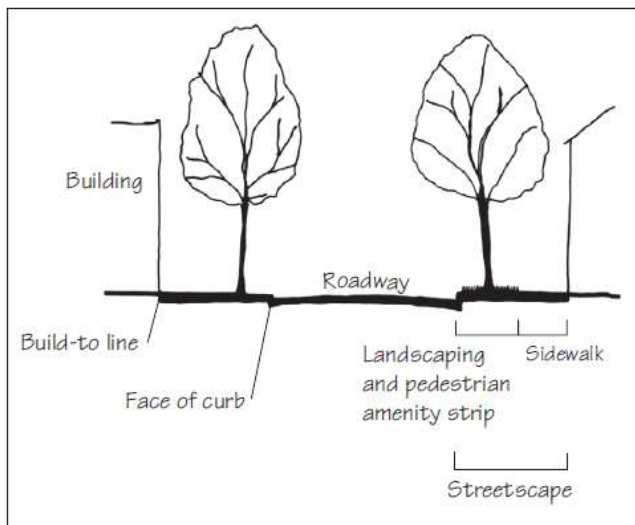


Illustration 31: The streetscape supports pedestrian activity by providing sidewalks, shade from trees, and a separation from motorized vehicular traffic.



Sidewalks along the site's frontages of both 44th Avenue and Oglethorpe Street (above left) are immediately behind the curb and are obstructed by utility poles.

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

Due to the location of the subject site within a designated corridor, the application is subject to Prince George's County Council Bill CB-2-2012, which includes a requirement for the provision of off-site bicycle and pedestrian improvements. Section 24-124.01(c) includes the following guidance regarding off-site improvements:

- (c) As part of any development project requiring the subdivision or re-subdivision of land within Centers and Corridors, the Planning Board shall require the developer/property owner to construct adequate pedestrian and bikeway facilities (to the extent such facilities do not already exist) throughout the subdivision and within one-half mile walking or bike distance of the subdivision if the Board finds that there is a demonstrated nexus to require the applicant to connect a pedestrian or bikeway facility to a nearby destination, including a public school, park, shopping center, or line of transit within available rights of way.**

Council Bill CB-2-2012 also included specific guidance regarding the cost cap for the off-site improvements.

The amount of the cost cap is determined pursuant to Section 24-124.01(c), as follows:

The cost of the additional off-site pedestrian or bikeway facilities shall not exceed thirty-five cents (\$0.35) per gross square foot of proposed retail or commercial development proposed in the application and Three Hundred Dollars (\$300.00) per unit of residential development proposed in the application, indexed for inflation.

Based on Section 24-124.01(c) and the eight dwelling units, the cost cap for the application is \$2,400. Section 24-124.01(d) also provides specific guidance regarding the types of off-site bicycle and pedestrian improvements that may be required, as follows:

- (d) **Examples of adequate pedestrian and bikeway facilities that a developer/property owner may be required to construct shall include, but not be limited to (in descending order of preference):**
- 1. Installing or improving sidewalks, including curbs and gutters, and increasing safe pedestrian crossing opportunities at all intersections;**
 - 2. Installing or improving streetlights;**
 - 3. Building multi-use trails, bike paths, and/or pedestrian pathways and crossings;**
 - 4. Providing sidewalks or designated walkways through large expanses of surface parking;**
 - 5. Installing street furniture (benches, trash receptacles, bicycle racks, bus shelters, etc.); and**
 - 6. Installing street trees.**

A scoping meeting was held with the applicant on October 17, 2017. The requirements and provisions of Section 24-124.01 and the Guidelines were discussed and several possible alternatives for off-site improvements were identified. Possible improvements identified at that time included ADA curb ramps, pavement markings for bikeways, crosswalk striping, and wayfinding or safety signage. Further discussions regarding appropriate improvements were held with the City of Hyattsville, and the required BPIS was submitted in May 2018. The applicant identified the opportunity to provide crosswalk striping at the intersection of US 1 and Oglethorpe Street. The identification of this improvement and location was done in coordination with the City of Hyattsville.

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

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

- (c) **As part of any development project requiring the subdivision or re-subdivision of land within Centers and Corridors, the Planning Board shall require the developer/property owner to construct adequate pedestrian and bikeway facilities (to the extent such facilities do not already exist) throughout the subdivision and within one-half mile walking or bike distance of the subdivision if the Board finds that there is a demonstrated nexus to require the applicant to connect a pedestrian or bikeway facility to a nearby destination, including a public school, park, shopping center, or line of transit within available rights of way.**

Demonstrated Nexus Finding: The crosswalk improvements proffered by the applicant will improve ADA access across US 1 at Oglethorpe Street, in the immediate vicinity of the subject application. This improvement will directly enhance the pedestrian environment between the site and multiple bus stops and commercial areas. Furthermore, well-marked crosswalks and clearly designated crossing locations are crucial to ensuring pedestrian safety along US 1.

Finding of Adequate Bicycle and Pedestrian Facilities

Council Bill CB-2-2012 requires that the Planning Board make a finding of adequate bicycle and pedestrian facilities at the time of PPS. Council Bill CB-2-2012 is applicable to PPS within designated centers and corridors. The subject application is located within the designated Baltimore Avenue Corridor, as depicted on the Plan 2035 Adequate Public Facility Review Map. Council Bill CB-2-2012 also included specific guidance on the criteria for determining adequacy, as well as what steps can be taken if inadequacies need to be addressed.

As amended by CB-2-2012, Section 24-124.01(b)(1) and (2) includes the following criteria for determining adequacy:

- (b) **Except for applications for development project proposing five (5) or fewer units or otherwise proposing development of 5,000 or fewer square feet of gross floor area, before any preliminary plan may be approved for land lying, in whole or part, within County Centers and Corridors, the Planning Board shall find that there will be adequate public pedestrian and bikeway facilities to serve the proposed subdivision and the surrounding area.**
1. **The finding of adequate public pedestrian facilities shall include, at a minimum, the following criteria:**
 - a. **The degree to which the sidewalks, streetlights, street trees, street furniture, and other streetscape features recommended in the Countywide Master Plan of Transportation and applicable area master plans or sector plans have been constructed or implemented in the area; and**

- b. The presence of elements that make it safer, easier and more inviting for pedestrians to traverse the area (e.g., adequate street lighting, sufficiently wide sidewalks on both sides of the street buffered by planting strips, marked crosswalks, advance stop lines and yield lines, “bulb out” curb extensions, crossing signals, pedestrian refuge medians, street trees, benches, sheltered commuter bus stops, trash receptacles, and signage. (These elements address many of the design features that make for a safer and more inviting streetscape and pedestrian environment. Typically, these are the types of facilities and amenities covered in overlay zones).**

With the improvements to the existing sidewalks along the frontages of the subject site, the environment for pedestrians will be greatly enhanced in the immediate vicinity of the new houses. The landscape strip will buffer the sidewalk from the travel lanes and provide for a safer and more pleasant walking environment. The crosswalk improvements will accommodate pedestrians walking along US 1 and improve access from the site to the destinations along US 1. As noted in the BPIS submitted by the applicant, “the crosswalk marking at this intersection is very poor and faded. New striping will provide a clear path for pedestrians crossing the street and alert drivers for their presence.” With the facilities proposed by the applicant, the Planning Board approves the pedestrian facilities for the subject application.

- 2. The finding of adequate public bikeway facilities shall, at a minimum, include the following criteria:**
 - a. The degree to which bike lanes, bikeways, and trails recommended in the Countywide Master Plan of Transportation and applicable area master plans or sector plans have been constructed or implemented in the area;**
 - b. The presence of specially marked and striped bike lanes or paved shoulders in which bikers can safely travel without unnecessarily conflicting with pedestrians or motorized vehicles;**
 - c. The degree to which protected bike lanes, on-street vehicle parking, medians or other physical buffers exist to make it safer or more inviting for bicyclists to traverse the area; and**
 - d. The availability of safe, accessible and adequate bicycle parking at transit stops, commercial areas, employment centers, and other places where vehicle parking, visitors, and/or patrons are normally anticipated.**

Designated bike lanes are recommended along US 1, in the vicinity of the subject site. However, the cost of restriping the road and possibly additional right-of-way acquisition is well beyond the cost cap specified in Section 24-124.01(c). Bike facilities along US 1 will have to be evaluated and addressed comprehensively by the Maryland State Highway Administration via a future resurfacing or capital improvement program project. Bicycle parking was considered by the applicant as a possible off-site improvement, but discussions with the City of Hyattsville indicated that bicycle parking already exists at nearby destinations and identified the crosswalk improvements along US 1 to be a higher priority in the vicinity of the site.

9. **Transportation**—Using trip generation rates from the Guidelines, it is estimated that eight townhomes will generate 5 AM (1 in, 4 out) and 6 PM (4 in, 2 out) peak-hour trips. However, the existing site (one single-family detached dwelling) generates one trip, consequently the net trip generation will be 4 AM and 5 PM peak-hour trips. Therefore, this constitutes a *de minimis* impact per the Guidelines.

The traffic generated by the proposed development will impact the signalized intersection of US 1 and Oglethorpe Street. The applicant provided staff with a peak-hour turning-movement count dated February 2018. The findings outlined below are based upon a review of these counts and analysis conducted by the Transportation Planning Section, consistent with the “Transportation Review Guidelines, Part 1.” The critical intersection, when analyzed with existing traffic counts and existing lane configurations, yielded the following results:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV AM & PM)		Level of Service (LOS, AM & PM)	
US 1 Baltimore Ave and Oglethorpe Street	837	715	A	A

The results show that the critical intersection operates acceptably under existing traffic in both peak hours. It is noted that counts were provided by the applicant, however, as a *de minimis* subdivision, this analysis is provided for informational purposes only.

Site Access Evaluation

Access to the townhouses will be from 44th Avenue via a shared alleyway, ingress/egress easement. Pursuant to Section 24-128(b)(8) of the Subdivision Regulations, the Planning Board may approve a subdivision with private rights-of-way, easements, alleys, or roads. A 20-foot easement is proposed to provide access to the rear of the eight proposed lots. However, the sector plan requires that access to the rear of a lot be a maximum of 18 feet wide. This access point is acceptable, and the Planning Board approves a reduction of the easement to 18 feet wide, in accordance with the sector plan.

Master Plan Roads

Neither Oglethorpe Street nor 44th Avenue are master-planned roads. Therefore, no additional right-of-way is required of this plan.

Based on the preceding findings, that the subject application is *de minimus*, adequate transportation facilities will exist to serve the proposed subdivision as required, in accordance with Section 24-124 of the Subdivision Regulations, if the application is approved with conditions.

10. **Public Utility Easement (PUE)**—Section 24-122(a) states that, when utility easements are required by a public company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

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

The standard requirement for a PUE is 10 feet wide along both sides of all public rights-of-way. The site has frontage along Oglethorpe Street to the north and 44th Avenue to the west; however, the applicant has submitted a variation request to provide five-foot-wide PUEs along both Oglethorpe Street and 44th Avenue. The variation is discussed below.

11. **Variation**—Section 24-122(a), Public Facilities Requirements, requires the following:

- (a) **When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among County Land Records in Liber 3703 at Folio 748.**

The development is proposed to be in full compliance with the requirements of the C-O and D-D-O Zones. The applicant is proposing to reduce the PUE from 10 feet wide to 5 feet wide along its frontage on Oglethorpe Street and 44th Avenue.

Section 24-113, Variations, of the Subdivision Regulations sets forth the required findings for approval of a variation.

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environmental Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

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

The granting of the variation will have no negative impact to public safety, health, or welfare. The area is developed with nearly all utilities in place, as it currently exists. Road improvement and/or widening is not anticipated in the foreseen future. Furthermore, the proposed development will provide a five-foot-wide PUE for any possible future utility use. Accordingly, the granting of the variation will not jeopardize public safety, health, and welfare. Abutting properties, and the subject property, have been previously platted without the provision of PUEs.

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

This property has unique circumstances in which road widening is not going to take place, utilities are currently present within the existing rights-of-way, and the site is located in a fully developed area. Abutting properties, and the subject property, have been previously platted without the provision of PUEs. Therefore, a full 10-foot-wide PUE is not warranted for this property. The applicant is not requesting a special privilege, but rather is attempting to develop the property in accordance with the prevailing conditions of the neighborhood. In addition, the sector plan requires that proposed buildings be constructed along the right-of-way, imposing a build-to line, rather than a setback, which further impedes the ability to provide a wider PUE. The granting of the variation is therefore based on specific circumstances of the subject property and does not confer any special privilege or treatment to the applicant that will be denied to others.

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

The variation to Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. This PPS and variation request for the location of PUEs was referred to the Potomac Power and Electric Company (PEPCO), the Washington Suburban Sanitary Commission (WSSC), Washington Gas, Verizon, and AT&T. WSSC will be provided separate easements for wet utilities, per their standard requirement. A response from the remaining utility companies referred was not received. It is noted that the site is currently served by public utilities, and the proposed five-foot-wide PUE will enhance the available area for utility placement or relocation. Therefore, the variation does not constitute a violation of any other applicable law, ordinance, or regulation.

- (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 convenience, if the strict letter of these regulations is carried out.**

The subject property is situated on the corner of Oglethorpe Street and 44th Avenue, with an area of 11,954 square feet, and is rectangular in shape. The site area is very small, and any additional area designated for easements will further diminish any potential development opportunities. The full implementation of the PUE, as required along both streets, will substantially reduce the developable area available on-site, rendering the site unsuitable for development, in accordance with the sector plan. The general character of the area is such that some structures are in close proximity to the right-of-way, leaving negligible space for a utility easement. However, the applicant is providing five-foot-wide PUEs along the abutting rights-of-way for any possible future utility installation. Therefore, given the size of the property and its location, the full 10-foot-wide PUE running alongside both rights-of-way, as typically required, will cause a significant hardship by denying the applicant a good portion of the land that otherwise could be utilized.

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

The subject property is zoned C-O; therefore, this provision does not apply. The Planning Board has determined that the site is unique to the surrounding properties and the variation request is supported by the required findings. The Planning Board has determined that approval of the applicant's request will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which is to guide development according to Plan 2035 and the master plan.

Therefore, the Planning Board approves the Variation from Section 24-122(a) for reduced-width PUEs along the public streets, as proposed.

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

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

Affected School Clusters #	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
Dwelling Units	8 DU	8 DU	8 DU
Pupil Yield Factor	0.145	0.076	0.108
Subdivision Enrollment	1	1	1
Actual Enrollment in 2017	20,310	5,371	9,405
Total Enrollment	20,311	5,372	9,406
State Rated Capacity	16,907	4,342	8,494
Percent Capacity	120%	124%	111%

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 (Capital Beltway) and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass-transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation, and the current amounts are \$9,317 and \$ 15,972, 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 one-quarter mile of a Metro station; or within the Bowie State MARC Station Community Center Designation Area, as defined in the 2010 *Approved Bowie State Marc Station Sector Plan and Sectional Map Amendment*. The bill also established an exemption for studio or efficiency apartments that are located within County urban centers and corridors, as defined in Section 27A-106 of the Prince George's County Code; within an approved transit district overlay zone; or where there is no approved transit district overlay zone then within a one-quarter mile of a Metro station. This act is in effect from October 1, 2013 through September 30, 2018.

13. **Fire and Rescue**—This PPS has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) of the Subdivision Regulations. The response time standard established by Section 24-122.01(e) is a maximum of seven minutes travel time from the first due station.

The project is served by Riverdale Fire/EMS, Company 807, which is located at 4714 Queensbury Road, Riverdale, MD. The Deputy Fire Chief, Brian J. Frankel, Emergency Services Command of the Prince George's County Fire/EMS Department, stated in writing that "as of April 5, 2018 the project is within a seven-minute travel time from the first due station." The Fire Chief, as of May 15, 2016, has outlined the adequacy of personnel and equipment, as required by Section 24-122.01(e).

14. **Capital Improvement Program (CIP)**—The Prince George's County FY 2018–2023 Approved CIP provides funding to construct a new fire station that will allow consolidation of the Riverdale and Riverdale Heights stations.

15. **Police Facilities**—This PPS has been reviewed for adequacy of police services, in accordance with Section 24-122.01(c).

The subject property is in Police District I, Hyattsville. The response time standards established by Section 24-122.01(e) is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The PPS was accepted for processing by the Planning Department on April 3, 2018. Based on the most recent available information provided by the Police Department, as of December 2015, the police response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls are met.

16. **Water and Sewer**—Section 24-122.01(b)(1) states that the location of the property, within the appropriate service area of the Ten-Year Water and Sewerage Plan, is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for PPS or final plat approval.

The 2008 *Water and Sewer Plan* designates the property in water and sewer Category 3, inside the Sewer Envelope, within Tier 1 under the Sustainable Growth Act, and will therefore be served by public systems.

17. **Use Conversion**—The total development included in this PPS is for eight lots for the development of eight single-family attached dwellings (townhomes) in the C-O and D-D-O Zones. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, as set forth in the resolution of approval and reflected on the PPS, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.
18. **Historic**—The subject property is located in the 2004 amended and expanded Hyattsville National Register Historic District (68-010-00). According to tax records, the building on Lot 19 of the subject site, with a property address of 5809 44th Avenue, was constructed in 1921 and is a contributing resource in the historic district. The building should be photo documented by the Historic Preservation Section, with permission of the applicant, prior to demolition or any grading. The documentation should include representative floor plans and interior and exterior photographs.

A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. The subject property does not contain, and is not adjacent to, any Prince George's County historic sites or resources. This proposal will not impact any historic sites, historic resources, or known archeological sites. Phase I archeology survey is not recommended.

19. **Urban Design**—The development district standards of the Gateway Arts District Sector Plan and SMA replace all those contained in the Prince George's County Zoning Ordinance. The subject property is located within the Hyattsville Town Center Character Area of the Gateway Arts District Sector Plan and SMA. Per the sector plan, townhomes are a permitted use within the character area and may not be subject to the detailed site plan (DSP) review process, if the site plan can demonstrate that it meets all the standards of the development district (page 139). In regard to the subject application, the PPS has been reviewed and is acceptable.

2004 Approved Gateway Arts District Sector Plan and Sectional Map Amendment:

The applicant submitted a site plan as supplemental information with the PPS. At the time of building permit or DSP review, a discussion of the applicable development district standards will be required. It should be noted that the supplemental site plan may be adjusted in the future to address some of the noted deficiencies relating to development district standards, which might allow the application to go directly to building permit. If the applicant finds that any of the development district standards cannot be adhered to, then a DSP, with an amendment request, would be necessary to seek relief.

Landscape Manual

The development is not subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual) because the development district standards of the Gateway Arts District Sector Plan and SMA replace the requirements of the Landscape Manual.

Tree Canopy Coverage

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that disturb more than 5,000 square feet. The C-O Zone requires a minimum of 10 percent of the gross tract area to be tree canopy and can be fulfilled through existing woodland or additional plantings. The property has a gross acreage of 0.27 acre and is required to provide 1,176 square feet of TCC at the time of DSP or building permit review.

20. **Environmental**—The subject property was previously reviewed for a Natural Resources Inventory Equivalency Letter, NRI-155-17, which was issued on August 9, 2017. The site also has a Standard Letter of Exemption (S-133-2017) issued on August 9, 2017. No other previous environmental reviews have occurred on this site.

Proposed Activity

This PPS proposes eight townhouse lots.

Grandfathering

The project is subject to the current regulations of Subtitle 24, Subdivisions, and Subtitle 25, Division 2, Woodland and Wildlife Habitat Conservation Ordinance (WCO), that came into effect on September 1, 2010 and February 1, 2012, because this is an application for a new PPS.

Site Description

The 0.27-acre site is in the C-O Zone and is located on the southeast corner of Oglethorpe Street and 44th Avenue. The site contains no woodlands. It is located within the Lower Northeast Branch watershed of the Anacostia River Basin. According to the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Web Soil Survey, the only soil type found on-site is Urban land-Christiana-Downer complex. According to available information, Marlboro clay is not present, but Christiana complex is identified on the property. The Sensitive Species Project Review Area layer prepared by the Maryland Department of Natural Resources, Natural Heritage Program, identified no rare, threatened, or endangered species found to occur on or in the vicinity of this property. There are no floodplains, wetlands, or streams associated with the site. The site has frontage on Oglethorpe Street and 44th Avenue, which are not identified as master-planned roadways. There are no designated scenic or historic roads adjacent to the site. According to the *Countywide Green Infrastructure Plan* (Green Infrastructure Plan) of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*, the site contains no regulated or evaluation areas within the designated network of the plan.

Plan Prince George's 2035 Approved General Plan (2014)

The site is located within Environmental Strategy Area 1 (formerly the Developed Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035.

Master/Sector Plan Conformance

The site is subject to the Gateway Arts District Sector Plan and SMA, which includes an Environmental Infrastructure section containing goals, objectives, and recommendations to be implemented during development application review. The following guidelines have been determined to be applicable to the current project. The text in **boldface** type is from the master plan, followed by comment on master plan conformance.

Recommendation 2: Incorporate low-impact development design features and implement green building techniques that include the latest environmental technologies.

The use of low-impact development design and green building techniques that include the latest environmental technologies should be used, as appropriate. The use of alternative energy sources such as solar, wind, and hydrogen power are encouraged.

Recommendation 4: Seek opportunities to create new, connected green infrastructure elements. New development or redevelopment project proposals should establish landscaped areas and open space connection, wherever possible.

The site contains no green infrastructure elements; however, redevelopment of this site should establish landscaped areas and open space connections, whenever possible. Conformance with the landscape standards will be reviewed at the time of permit or DSP, if required.

Recommendation 6: Decrease impervious surfaces by sharing parking to the fullest extent, constructing green roofs, and following the county's Department of Environmental Resources requirements to the fullest extent.

The redevelopment of this site should follow DPIE as succession to the Department of the Environment requirements, to the extent possible.

Recommendation 7: Use micromanagement stormwater treatment methods on new development or redevelopment projects.

This project will be treated as a new development for SWM review by DPIE. The site has an approved SWM Concept Letter and Plan (43441-2017-00) that has been found in conformance with Subtitle 32. Proposed SWM structures include porous pavement and a perforated underdrain, which feeds into the County stormdrain system.

Recommendation 8: Encourage new development to avoid impact on wetlands. Where feasible construct new wetlands with the intent of replicating the functions provided by natural wetlands, including pollutant interception, erosion control, and provision of wildlife habitat.

The subject site is already developed and does not contain any wetlands. The creation of engineered wetlands do not appear to be a viable option for this site, given its urban location and size constraints.

Countywide Green Infrastructure Plan Conformance

According to the Green Infrastructure Plan, the site contains no regulated or evaluation areas within the designated network of the plan. No further action is necessary for conformance with the Green Infrastructure Plan.

Conformance with the 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 countywide level. These policies are not intended to be implemented on individual properties or projects and, instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans, County ordinances for SWM, floodplain, and woodland conservation, and programs implemented by DPIE, the Prince George's County Health Department, the Prince George's County Department of Environmental Resources, the Prince George's Soil Conservation District, the Maryland-National Park and Planning Commission, and WSSC is also deemed to be consistent with this master plan.

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.

Natural Resources Inventory/Existing Conditions

A Natural Resources Inventory Equivalency Letter (NRI-155-17) was issued on August 9, 2017. No woodlands or regulated environmental features are located on the site. No revisions are required for conformance to the NRI.

Woodland Conservation

This property is not subject to the provisions of the WCO because the site is less than 40,000 square feet and has no previously approved tree conservation plans. The site has been issued a Standard Letter of Exemption (S-133-17). No additional information is required concerning Woodland Conservation.

Soils

According to the USDA NRCS Web Soil Survey, the only soil type found on-site is Urban land-Christiana-Downer complex. According to available information, Marlboro clay is not present, but Christiana complex is identified on the property. The property contains Christiana complex with no steep slopes, floodplain, or streams located on-site. The lack of on-site or adjacent regulated environmental features identifies that the on-site Christiana soils must follow four restrictions identified by DPIE. DPIE will comment on this site if further soil investigations are required due to the Christiana soils on-site. This information is provided for the applicant's benefit.

18. **City of Hyattsville**—By letter dated May 22, 2018 (Hollingsworth to Hewlett), the City of Hyattsville noted concerns regarding the applicant's proposed subdivision and their ability to provide adequate public services to the residential dwelling units. The Hyattsville City Council voted in support of the subdivision application and recommends conditions, specified below, that are intended to enable the applicant to move forward with its project, while addressing the City's concerns.
 1. **The applicant shall reduce the number of proposed dwelling units to less than eight units, preferably wider units of 20'-22', while maintaining the proposed building footprint;**
 2. **The City of Hyattsville is not agreeable to a variance, therefore the build-to-line from the face of the curb shall be no less than 10', the Gateway Arts District Plan permits an allowable variance of +/- 5', which we believe is adequate for the subject site;**
 3. **The applicant shall provide the City of Hyattsville with an exhibit demonstrating the landscape plan for review and approval, prior to issuance of County Building Permit;**

- 4. M-NCPPC is to confirm whether the proposed exterior parking pads provided at the rear of each dwelling unit meets the applicable standards to be dedicated parking spaces. If the pads do not meet the required standard dimensions, the applicant shall revise the application to reflect the required dimensions for a parking space.**

The concerns presented by the City of Hyattsville are not readily applicable to the subject application, which does not include the review and siting of proposed dwelling units. At the time of permitting, the applicant will be required to demonstrate conformance with the development district standards of the Gateway Arts District Sector Plan. Any amendments to the development district standards will require the submittal of a DSP. The application proposes eight 16-foot-wide lots, which is consistent with development in the area. Single-family attached lot sizes ranging from 14 to 22 feet wide have been approved with prior subdivision cases in the immediate vicinity. While the City of Hyattsville has expressed a desire for slightly larger dwelling units for this particular application, the approval of eight lots with this PPS does not preclude further analysis of the proposed dwelling units at the time of DSP for appropriate site design, which may result in the loss of dwelling units and/or reconfiguration of lots.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey, Doerner, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, June 7, 2018, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28th day of June 2018.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

EMH:JJ:JO:gh