

C O R R E C T E D   R E S O L U T I O N

WHEREAS, 7624 SE Crain, LLC is the owner of a 15.36-acre parcel of land known as Lots 1 and 3 and Parcels 47, 53, and 64, said property being in the 15th Election District of Prince George's County, Maryland, and is located in the Commercial Shopping Center (C-S-C) and Rural Residential (R-R) Zones; and

WHEREAS, on August 13, 2019, Petroleum Marketing Group, Inc. filed an application for approval of a Preliminary Plan of Subdivision for 75 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-18016 for Crain Commons 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 January 30, 2020, for its review and action in accordance with the Land Use Article of the Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on January 30, 2020, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-003-2018, and APPROVED a Variance from Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-18016, including a Variation from Section 24-121(a)(3), for 75 lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
  - a. Reflect the site layout to no more than 50 lots in accordance with Staff Exhibit B.
  - b. Show Ownership, Legal Description (Liber Folio or Plat Number), subdivision name, and lot and block for all adjoining properties.
  - c. Revise General Note #23 to state that the mandatory park dedication requirement is met by dedication of stream valley parkland.
  - d. Remove the outdated approval blocks from the plan per Planning Department Bulletin 5-2019. Save a 2-inch square blank space in the lower right corner of the plan for staff placement of a new approval block.

- e. Remove the parking calculation box; this information is not pertinent to a PPS and the PPS will not approve the amount of parking provided.
  - e. Show a PUE along the entirety of the site's ultimate US 301 frontage, including the two locations where the ROW increases from 150 feet to 200 feet.
  - f. Show a standard sidewalk along both sides of all internal roads.
  - g. Show one trail/sidewalk connection from the residential townhouses to the commercial space along US 301 (Crain Highway).
- 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 within the subject property shall be limited to uses which generate no more than 83 AM and 151 PM net peak-hour trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
  - 4. Prior to the approval of any building permit 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. Intersection of US 301 and MD 382: Reconfigure the intersection to provide an exclusive left lane and a shared through/right lane on the eastbound approach.
  - 5. Development of this site shall be in conformance with approved Stormwater Management Concept Plan (57752-2017) and any subsequent revisions.
  - 6. Prior to approval of a final plat:
    - a. The final plat shall grant 10-foot-wide public utility easements along the public and private rights-of-way, as required in accordance with the subdivision regulations.
    - b. The final plat shall include a note stating that Croom Road (MD 382) is a scenic and historic road and a State Scenic Byway.
    - c. Demonstrate that a homeowners' association has been established for the subdivision. The draft covenants shall be submitted to the Subdivision and Zoning Section of the Development Review Division to ensure that the rights of The Maryland-National Capital Park and Planning Commission are included. The liber/folio of the declaration of covenants shall be noted on the final plat prior to recordation.

- d. The right-of-way for the US 301 arterial road shall be dedicated in accordance with the approved Preliminary Plan of Subdivision.
7. Prior to signature approval of the preliminary plan of subdivision, the NRI shall be revised so the NRI site statistics correctly indicate the gross tract area of the site. The statistic labeled as Right-of-Way Dedication shall be removed from the table or relabeled as "Future Right-of-way Dedication", which cannot be deducted in calculating the net tract area.
  8. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised, as follows:
    - a. The plans must be prepared in conformance with the guidance provided in the Environmental Technical Manual.
    - b. The site statistics on the TCP1 shall be revised to be consistent with the corrected site statistics of the revised NRI.
    - c. In the Specimen Tree Table, the disposition should be revised as "Removed" consistent with the variance granted.
    - d. Add the standard Subtitle 25 variance note under the Specimen Tree Table or Woodland Conservation Worksheet identifying with specificity the variance decision consistent with the decision of the Planning Board:

"NOTE: This plan is in accordance with the following variance(s) from the strict requirements of Subtitle 25 approved by the Planning Board on (ADD DATE) for the removal of the following specified specimen trees (Section 25-122(b)(1)(G): (Identify the specific trees to be removed)."
    - e. Revise the title of the Significant Trees Table to include the description: "(Trees less than 30-inches in diameter at breast height (dbh) and not classified as specimen, historic or champions are not subject to Subtitle 25. variance requirements for removal)". Significant trees are not defined or protected in the local or state WCO.
    - f. Significant trees shall be graphically differentiated from Specimen Trees on the plan sheet and in the plan legend.
    - g. Add a woodland conservation sheet summary table to Sheets 2, 3 and 4 and add a woodland conservation summary table to the cover sheet, which indicates the woodland conservation on each sheet, and is summarized to support the quantities of woodland conservation indicated in the woodland conservation worksheet. The tables shall include areas in acreage to the hundredth.
    - h. Remove the steep and severe slopes from the plan sheets but retain the delineated PMA line.

- i. Identify and label easements affecting the retention of woodlands on the site, including existing and proposed utility easements, existing 100-year floodplain easement, stormwater management easements and other similar easements which are incompatible with perpetual woodlands. Add all graphic lines for easements to the legend. Woodland conservation cannot be credited within incompatible easements.
- j. The plans show a master-planned right-of way crossing the lot, as well as dedication on Croom Road, and existing US 301. Remove all woodland conservation credited within existing or master-planned rights-of-way.
- k. The locations of woodland conservation areas have been shown by methodology and acreage to the hundredth. Square footage shall be removed.
- l. Revise the legend to include all graphic elements on the plan, using the standard symbols and labels whenever appropriate, and remove graphic elements and labels not pertinent to the plan.
- m. Confirm the location of all proposed SWM features and conceptual SWM easements, if applicable. Woodland conservation within a SWM easement shall not be credited unless written permission is granted by DPIE.
- n. All retaining walls shall be set back a minimum of 10-feet from the PMA to allow for construction and maintenance access at the top or bottom of the wall.
- o. All woodland conservation areas shall be set back a minimum of a 10-feet from the bottom or top of any retaining wall to maintain access for maintenance.
- p. All woodland conservation areas shall be set back a minimum of 10-feet from townhouse lot lines to provide access around each stick of units.
- q. Provide metes and bounds on all property boundaries.
- r. Remove Tree Protection Fence and Woodland Conservation Signage from the TCP1. These items are appropriately addressed at time of TCP2.
- s. If woodland conservation is located on land proposed to be dedicated to the Parks Department, written permission from the Parks Department is required prior to certificate approval of the TCP1.
- t. After all required revisions to the plan set have been completed, revise the woodland conservation worksheet to correctly reflect woodland conservation required, and woodland provided by methodology and area.

- u. After revisions are made, have the revised TCP1 plan signed and dated on the cover by the Qualified Professional who prepared it. A professional seal is preferred in the title block when a licensed professional signs the plan.
  - v. Revise the TCP1 to reflect a lot layout consistent with the approved preliminary plan of subdivision.
9. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan, TCP1-003-2018. 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 (TCP1-003-2018), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George’s County Planning Department.”
10. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated PMA except for any approved impacts or existing easements that are to remain 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. Prior to the issuance of any permits, which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
12. Frontage improvements along MD 382 shall maintain the existing roadway section and incorporate bicycle compatible improvements in conformance with the Maryland State Highway Administration’s January 2015 Bicycle Policy and Pedestrian Design Guidelines, unless modified by SHA. The frontage improvements shall be evaluated at the time of DSP.
15. Prior to approval of building permits, the applicant and the applicant’s heirs, successors, and/or assignees shall convey to the homeowners/business owners association land as identified on the approved preliminary plan of subdivision and detailed site plan. Land to be conveyed shall be subject to the following:

- a. A copy of the deed for the property to be conveyed shall be submitted to the Subdivision and Zoning Section of the Development Review Division, Upper Marlboro, Maryland.
  - b. All waste matter of any kind shall be removed from the property, 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 or 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 the association shall be in accordance with an approved site plan and tree conservation 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 the association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division.
  - f. The Prince George's County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.
16. Prior to or concurrent with approval of the first final plat for the subdivision, 6.27 acres of parkland shown as Parcel H on the PPS shall be conveyed to The M-NCPPC, subject to the following:
- a. An original, special warranty deed for the property to be conveyed, (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division at The M-NCPPC, along with the application for the first final plat.
  - b. The M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to application of the building permit.
  - c. The boundaries and acreage of land to be conveyed to The M-NCPPC shall be indicated on all development plans and permits, which include such property.

- d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by The M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, The M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.
- e. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled, and underground structures shall be removed. The DPR shall inspect the site and verify that land is in an acceptable condition for conveyance, prior to dedication.
- f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by The M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by The M-NCPPC, the DPR shall review and approve the location and design of these facilities. The DPR may require a performance bond and easement agreement prior to issuance of grading permits.
- g. No storm water management facilities, or tree conservation or utility easements shall be proposed on land owned by or to be conveyed to The M-NCPPC without the prior written consent of the DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by the DPR, a performance bond, maintenance and easement agreements shall be required prior to the issuance of grading permits.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject site is located in the southwest quadrant of the intersection of MD 382 (Croom Road) and US 301 (Robert Crain Highway). This preliminary plan of subdivision (PPS) includes Parcels 47, 53, and 64 recorded in the Prince George's County Land Records in Liber 32304 at folio 11, Liber 9263 at folio 187, and Liber 36669 at folio 565, respectively. The PPS also includes Lot 1 recorded in Plat Book MMB 236-7 and Lot 3 recorded in Plat Book NLP 139-68. The site is located in the Commercial Shopping Center (C-S-C) and Rural Residential (R-R) Zones and is subject to the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (Subregion 6 Master Plan and SMA). Parcels 47 and 53 are undeveloped; Lots 1 and 3 are each developed with a single-family detached house, while Parcel 64 is currently developed with a gas station.

The applicant proposed the creation of two separate development pods on the site. The first development pod would contain proposed Parcel 1 to ultimately have 9,965 square feet of commercial development accessed from US 301. The second development pod would be for the townhouse development and was proposed to have 75 lots and 12 parcels accessed from MD 382, as discussed further.

The site abuts US 301 to the north, an existing arterial roadway. Section 24-121(a)(3) of the Prince George's County Subdivision Regulations requires that sites adjacent to a planned arterial roadway not access those roads directly, and be designed to front on an interior road. The applicant requested approval of a variation for direct access onto an arterial roadway, as discussed further.

The applicant also requested a Variance to Section 25-122(b)(1)(G) of the Prince George's County Code, for the removal of five specimen trees, as discussed further.

The approval of the PPS is conditional on the number of residential lots being reduced from 75 to 50. This condition is required because the plan with 75 units would exhibit lack of conformance to the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035), as well as incompatibility with the surrounding low-density residential community, as discussed further in the Community Planning finding of this resolution.

3. **Setting**—The property is located on Tax Map 109 in Grids F-3 and F-4, located in Planning Area 82A, and is zoned C-S-C and R-R. The subject property is bounded to the northeast by commercial development in the C-S-C Zone and MD 382, with property beyond in the Residential-Agricultural Zone, which is developed with single-family detached residential. Adjacent properties to the southeast and southwest are zoned Residential-Estate and are vacant and developed with single-family detached residential, respectively. US 301 bounds the site to the northwest, with property beyond zoned C-S-C, and developed with commercial uses.
4. **Development Data Summary**—The following information relates to the subject PPS application and the approved development.

|                  | EXISTING                                        | APPROVED                                            |
|------------------|-------------------------------------------------|-----------------------------------------------------|
| Zone             | C-S-C (2.85 acres)<br>R-R (12.51 acres)         | C-S-C (2.85 acres)<br>R-R (12.51 acres)             |
| Use(s)           | Gas Station<br>Single-Family Detached<br>Vacant | Commercial<br>Single-Family Attached<br>(Townhouse) |
| Acreage          | 15.36                                           | 15.36                                               |
| Gross Floor Area | 1,054 square feet                               | 9,965 square feet                                   |
| Parcels          | 3                                               | 12                                                  |
| Lots             | 2                                               | .50                                                 |
| Outlots          | 0                                               | 0                                                   |
| Variance         | No                                              | Yes<br>25-122(b)(1)(G)                              |
| Variation        | No                                              | Yes<br>24-121(a)(3)                                 |

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on September 6, 2019. The requested variation from Section 24-121(a)(3) was accepted on August 13, 2019, and also heard before SDRC on September 6, 2019, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Previous Approvals**—Lot 1 of the site was subject to a previously approved PPS 4-10017 (PGCPB Resolution No. 11-32), approved by the Prince George’s County Planning Board on April 14, 2011, which resubdivided one lot and two parcels into one lot and one parcel. Lot 1 contains an existing single-family detached dwelling, proposed to remain at the time but now proposed to be removed. Parcel 1, resulting from PPS 4-10017, was developed with a CVS Pharmacy and is not part of the current application. The current PPS 4-18016 will supersede the previous approval for Lot 1 of the subject site, if approved.

A previous PPS for the subject site (Parcels 47, 53, and 64 and Lots 1 and 3) was submitted on March 26, 2018, as application 4-17039. Staff recommended disapproval of this prior PPS and the application was subsequently withdrawn. PPS 4-17039 proposed development substantially similar to that currently under review, including 76 townhouse lots and 10,250 square feet of commercial development.

6. **Community Planning**—This PPS with 75 units is not in conformance with Plan 2035, in accordance with Section 24-103(a), Section 24-104(a)(2) and Section 24-121 of the Subdivision Regulations, which set forth the following Policy, Purposes, and Planning and design requirements as they relate to Plan 2035:

**Sec. 24-103. – Policy.**

- (a) It is hereby declared to be the policy of Prince George's County to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the County, pursuant to the General Plan, for the orderly, planned, efficient, and economical development of the County.

**Sec. 24-104. – Purposes.**

- (a) The purposes of this Subtitle are as follows:
- (2) To guide development according to the General Plan, area master plans, and their amendments.

**Sec. 24-121. - Planning and design requirements.**

- (a)(5) The preliminary plan and final plat shall conform to the area master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant recommendations within the comprehensive plan no longer appropriate, is no longer applicable, or the District Council has not imposed the recommended zoning. Notwithstanding any other requirement of this Section, a proposed preliminary plan or final plat of subdivision may be designed to conform with the land use policy recommendations for centers, as approved within current County general plan. In such cases, the Planning Board may approve a preliminary plan application as may be designed to conform with the land use policy recommendations for centers, as duly approved within the current General Plan.

The PPS with 75 units does **not** conform to Plan 2035 (the General Plan), because the proposed subdivision:

- Contradicts Plan 2035's Growth Policy 1 (Concentrate Future Growth), which concentrates most new residential development in Regional Transit Districts and Local Centers that are not near the application site, but instead are mostly located near the western edge of the county, away from the Rural and Agricultural Areas;
- Does not conform with Plan 2035's Community Character, Principle 6 and Policy HD 13.3 in the Community Heritage, Culture, and Design element, that recommends careful transitions near the border between Established Communities and Rural and Agricultural Areas, and development strategies to preserve land for resource protection or open space;

- Is not in character with the existing surrounding low-density residential development pattern, and so, is not context-sensitive, as Plan 2035 recommends in its designation of the application site in the Established Communities policy area.

### **General Plan**

When development plans are in conformance with recommendations in approved master plans or sector plans, the Zoning Ordinance, and the Subdivision Regulations, they may be presumed to conform to Plan 2035 policies and recommendations. However, for reasons described below, there are insufficient development standards applying to this site to allow such a presumption.

The Prince George's County District Council amended the Zoning Ordinance in Prince George's Council Bill CB-122-2017, to allow townhouses as a by-right permitted use in the R-R and C-S-C Zones. However, with this bill the District Council also exempted townhouses from the development standards of these zones, without adopting any replacement development standards to govern the townhouse development. The District Council instead delegated authority to set standards to the Planning Board as part of the detailed site plan (DSP) review process (Section 27-441(b), footnote 120 for the R-R Zone; Section 27-461(b), footnote 68 for the C-S-C Zone).

Roughly a year later, the District Council adopted CB-75-2018, which was intended to provide additional guidance to the Planning Board. CB-75-2018 amended the use table footnote created by CB-122-2017, now codified in Section 27-441(b), footnote 120(C) of the Zoning Ordinance, to state that for certain properties in the R-R Zone, townhouses are permitted, provided:

**A Detailed Site Plan shall include adjoining property located in the C-S-C Zone and be approved in accordance with Part 3, Division 9, of this Subtitle. Regulations concerning the net lot area, lot coverage, frontage, setbacks, density, landscaping and other requirements of the R-R Zone shall not apply. These dimensional (bulk) regulations shall be approved in accordance with such requirements applicable to a Regional Urban Community in the M-X-T Zone, as set forth in Section 27-544(f)(2)(E) and (G) of this Subtitle, by the Planning Board (or District Council after review) in the Detailed Site Plan. The Detailed Site Plan shall show commercial development and include architectural review to ensure high quality design and construction materials compatible with the surrounding area.**

According to this footnote, for applicable projects, development standards consistent with Sections 27-544(f)(2)(E) and (G) of the Zoning Ordinance will apply in lieu of R-R Zone development standards. However, Sections 27-544(f)(2)(E) and (G) only regulate the composition and design of individual townhouse building groups and do not speak to more basic development standards commonly regulated through zoning and referenced in the footnote, including net lot area, lot coverage, frontage, setbacks, landscaping, and most important to the establishment of a subdivision, density. The Zoning Ordinance has no set density standards for a Regional Urban Community in the Mixed-Use Transportation Oriented (M-X-T) Zone. Instead, in a Regional Urban Community, the maximum number and type of dwelling units is determined at the time of

the conceptual site plan approval (CSP), per Section 27-544(f)(2)(A). There is no prior CSP approval governing this site, nor is one required under the R-R or C-S-C zoning regulations.

Conformance to the Residential Low (up to 3.5 dwelling units per acre) future land use recommended by the Subregion 6 Master Plan and SMA for the subject property was rendered inappropriate because per Section 24-121(a)(5) of the Subdivision Regulations, master plan conformance is not required if events have occurred to render the relevant recommendations within the plan no longer appropriate. The qualifying intervening event is the adoption of the council bill permitting townhouses in the R-R Zone. As a result, the only guidance available to staff and the Planning Board with which to review this application is that contained in Plan 2035.

Plan 2035 classifies the application site in the Established Communities Growth Policy area. Established Communities are “most appropriate for context sensitive infill and low- to medium-density development” (Plan 2035, page 20). The proposed subdivision is not in keeping with the character of the surrounding residential development pattern. Growth Policy 8 calls for Established Communities located, like the subject property, adjacent to rural and agricultural areas designated for conservation of agricultural and forest resources, to adopt development patterns that reduce density as a transition adjacent to rural and agricultural areas. This proposal would increase residential density adjacent to a rural and agricultural area (see Figure 1).

In addition, the General Plan (Plan 2035, page 100) reinforces the master plan recommendation of Residential Low future land use for most of the application site (12.51 acres), with Commercial land use recommended for the remaining northern portion (2.85 acres). Residential Low is defined as “residential development up to 3.5 dwellings per acre, primarily single-family detached dwellings,” while Commercial is defined as “retail and business areas, including employment uses such as office and service uses” (Plan 2035, page 100).

Though CB-122-2017 intended to delegate authority to set development standards to the Planning Board, the Planning Board does not recommend approval of a plan or standards that contradict Plan 2035, as it is the most authoritative guiding document available given the lack of standards under the zoning and the inapplicability of the relevant master plan standards. With 75 units, the residential portion of the site, at a density of 7.7 units per acre of net land area, exceeds Plan 2035’s recommended density for Residential Low areas. The commercial portion of the site does conform to Plan 2035.

#### **Master Plan**

The Subregion 6 Master Plan and SMA (CR-82-2013) makes the following recommendations that affect the application site:

- Include a master planned right-of-way for US 301 through the center of the application site as shown in the Transportation section of the master plan on Map 14: US 301 Corridor Road Improvements (page 86).
- Protect Charles Branch as a Secondary Environmental Corridor (pages 64 and 66).

- Preserve MD 382 as a designated State Scenic Byway known as the Lower Patuxent River Tour, incorporated into the Star-Spangled Banner Scenic Byway (pages 102 and 165).

As these recommendations would apply regardless of the development proposed for the site, they are still applicable and must be conformed to under Section 24-121(a)(5) of the Subdivision Regulations.

#### **SMA/Zoning**

The Subregion 6 Master Plan and SMA (CR-83-2013) retained 12.51 acres of the application site in the R-R Zone, and the remaining 2.85 acres in the C-S-C Zone. In retaining the R-R and C-S-C Zones, the 2013 SMA implemented future land use recommendations in the master plan (Residential Low and Commercial).

#### **General Plan Conformance Issues**

The application's proposed development of 75 townhouses (single-family attached housing), on small lots ranging from 1,490 square feet to 2,080 square feet, is inconsistent with the existing surrounding land use and development, and is therefore, not context-sensitive infill development, as called for in Plan 2035's definition of the Established Communities area. The proposed higher density is not consonant with Plan 2035's policy for residential development in Established Communities areas that border Rural and Agricultural Areas because the proposal does not create a transition and reduced density adjacent to Rural and Agricultural Areas.

The proposed higher density residential development, at the subject location, also contradicts the Plan 2035's Growth Policy 1, that "recommends directing the majority of future employment and residential development be concentrated in Regional Transit Districts and Local Centers" (page 19). This application site is almost eight miles away from the nearest Regional Transit District at Branch Avenue, and over four miles from the nearest Local Center at Westphalia.

The proposed construction of 75 townhouses on 15.36 acres of R-R and C-S-C-zoned land would result in residential development at a density of 4.9 dwelling units per gross acre ( $15.36 \times 4.9 = 75$ ). However, per the Zoning Ordinance, it is required that density be based on the net lot area. As this site contains floodplain, the net area of the site is 9.8 acres, which would indicate 7.7 dwelling units per acre are proposed. This is over 100 percent higher than the 3.5 dwelling units per acre that defines the Residential Low category of future land use recommended for the application site (see Figure 2). This number of dwelling units would conflict with the recommendations in the General Plan, and a lower density would be more consistent with the predominant character of the existing surrounding residential development of single-family detached homes on large lots ranging from 20,000 square feet to one acre, or greater in size (see Figure 3).

In order to bring the site into conformance with a density of 3.5 dwelling units per acre, a significant reduction to the proposed lots is required. At the January 30, 2020 Planning Board hearing, the applicant provided an exhibit and proposed a reduction to 66 lots or 6.7 dwelling

units per net acre, which is within the higher limits of the medium density range (3.5-8 dwelling units per acre). Staff Exhibit B, also presented to the Planning Board at their meeting of January 30, 2020, exhibited a further modified layout for a density of 5.1 dwelling units per net acre and expanded buffer from MD 382. A density of 5.1 dwelling units per net acre is within the lower limits of the medium density range and, with a wide buffer between the townhouse lots and the R-A zoned lots across MD 382 to the northeast, provides a gentler transition between the development and the existing surrounding low-density residential development pattern. It mitigates the plan's nonconformance to Plan 2035's Community Character, Principle 6 and Policy HD 13.3 in the Community Heritage, Culture, and Design element. Both the lower density and approximate buffer shown in Staff Exhibit B are required to achieve a context sensitive design, therefore a reduction to no greater than 5.1 dwelling units per acre is required along with the buffer.

7. **Stormwater Management**—A Stormwater Management (SWM) Concept Letter and Plan, 57752-2017, was approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) on June 21, 2018 and is valid through June 21, 2021. The SWM concept plan shows the proposed use of 13 micro-bioretenment areas and 62 drywells. Given that the location of the project is within a historic flooding watershed, 100-year quantity control is required. Development must be in conformance with the SWM concept plan, or subsequent revisions, to ensure that on-site or downstream flooding does not occur.
8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements of the Subdivision Regulations, the Subregion 6 Master Plan and SMA, and the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, as they pertain to public parks and recreational facilities.

The subject development is comprised of 2.85 acres of land zoned C-S-C and 12.51 acres of land zoned R-R. The subject property is not adjacent to any Maryland-National Capital Park and Planning Commission (M-NCPPC) owned property.

The applicant's submitted plan indicates that the site will be developed as a mixed-use development consisting of 75 single-family attached residential homes and 9,965 square feet of commercial/retail along US 301. As per Section 24-134(a)(1) of the Subdivision Regulations, mandatory dedication of parkland applies to the residential portion of this development.

Based on the density of the residential units relative to the 15.36-acre gross land area of the site, the applicant may be required to dedicate 7.5 percent of their land to M-NCPPC for public parks. In this case, application of the mandatory dedication of parkland requirement would require the dedication of approximately one acre of land to M-NCPPC.

The master plan section for public facilities, parks and recreation states:

**Policy 4: Conserve stream valleys and other valuable natural resource areas.**

More specifically, Map 20, Public Parks, Recreation, and Open Space designates future lands for the Charles Branch Stream Valley as a master-planned stream valley park, with active and passive recreation. The subject development plan contains approximately 5.5 acres of 100-year floodplain along the Charles Branch. Section 24-134(a)(4) states that when land is shown for preservation as part of a stream valley park on an official master plan, such land may be dedicated, or preserved in lieu of active recreation, provided that the Planning Board finds that there is a reasonable amount of active recreation in the general area and that any trails shown on the master plan are provided. The subject property is located in close proximity to two M-NCPPC-owned parks, Marlton Park and Fairhaven Park. Both parks contain a variety of recreational facilities, which will serve the new residents of this development. As such, dedication of the floodplain portion of the subject property to M-NCPPC (approximately 6.2 acres), to meet the recommendations of the Subregion 6 Master Plan and SMA, as related to the Charles Branch Stream Valley Park, would be appropriate. The proposed dedication area contains the 100-year floodplain, wetlands, and stream buffers. The dedication of this parcel will facilitate further Prince George's County Department of Parks and Recreation (DPR) efforts to acquire properties to the south to connect to the existing Charles Branch Stream Valley Park that is owned by M-NCPPC. In addition, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) calls for a master-planned trail to be implemented along Charles Branch. The dedication of this property would greatly enhance the implementation of this trail, at the time of the design phase.

The Planning Board finds the conveyance of parkland satisfies the mandatory dedication of parkland requirements for this site. The plans submitted by the applicant propose the conveyance of Parcel H (6.27 acres) to M-NCPPC, which exceeds the mandatory parkland dedication requirement.

9. **Trails**—This PPS was reviewed for conformance with MPOT and the Subregion 6 Master Plan and SMA (area master plan) to implement planned trails, bikeways, and pedestrian improvements. The property is not located within a designated Center or Corridor; therefore, it is not subject to Section 24-124.01 of the Subdivision Regulations and the "Transportation Review Guidelines, Part 2."

#### **Master Plan Compliance**

Two master plan trail/bikeway issues impact the subject property. The Charles Branch Trail runs along a portion of the southwest boundary of the property, and a planned bikeway runs along MD 382. The area master plan includes the following text regarding these planned facilities:

**MD 382 (Croom Road) Bikeway:** Primary route through Rural Tier; provides access to parkland and historic sites along the Patuxent River (page 106).

**Charles Branch Stream Valley Trail:** This trail will connect from Dower House Road to the Patuxent River. This is a long-term project where much land remains to be acquired. The trail will provide access to Rosaryville State Park and the Patuxent River, as well as serve as part of the cross-county connection with the Piscataway Creek Stream Valley Trail. The Charles Branch corridor serves as an important connection for equestrians to the state park (pages 108–109).

The stream valley shall be dedicated in order to accommodate the Charles Branch Stream Valley Trail. No trail construction is required at this time, as additional land acquisition is necessary to accommodate the trail in the vicinity of the subject site, and the suitable crossing location of US 301 needs to be determined.

MD 382 is a designated bicycle route serving the Rural Tier. It is also a scenic and historic road. Frontage improvements should accommodate bicycle movement while respecting the scenic and rural nature of the road, consistent with state policy implementing context sensitive solutions. A condition of approval for frontage improvements was applied to the adjacent CVS Pharmacy commercial site to the north, also fronting on MD 382. A similar condition of approval is required for the subject site.

The Complete Streets section of the MPOT includes the following policies regarding sidewalk construction, the accommodation of pedestrians, and provision of complete streets:

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

**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.**

Sidewalks shall be provided along both sides of all internal roads, excluding alleys.

10. **Transportation**—The application analyzed is a PPS for a mixed-use development of commercial and residential (townhouse) uses. The traffic impact analysis (TIA) submitted by the applicant was based on 77 units however, at subsequent submittals, the applicant revised the PPS for 76, and then 75 units. Using trip generation rates from the “Transportation Review Guidelines, Part 1,” the proposed development of 75 townhomes and 9,965 square feet would generate 101 AM and 171 PM net new trips. Because the existing uses are generating traffic, and will be subsequently razed, the trips associated with those uses are subtracted from the new trips generated by the new development. Consequently, the total traffic was evaluated based on 59 AM and 123 PM net new trips.

The proposed development will impact the following intersections deemed to be critical:

- US 301 and MD 382 - signalized
- US 301 and Osborne Road - signalized
- US 301 and Site Access
- MD 382 and Site Access 1
- MD 382 and Site Access 2

The findings outlined below are based upon a review of the materials and analyses conducted, consistent with the "Transportation Review Guidelines, Part 1."

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

**Links and signalized intersections:** Level-of-service D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better;

**Unsignalized intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections: (a) vehicle delay is computed in all movements using *The Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. Once the CLV exceeds 1,150, this is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

**Roundabouts:** Where the analysis using *The Highway Capacity Manual* (Transportation Research Board) indicates a volume-to-capacity ratio greater than 0.850 for the intersection, geometric improvements or trip reduction measures should be considered that will reduce the volume-to-capacity ratio to an acceptable level. The operating agency can deem a volume-to-capacity ratio between 0.850 and 0.900 to be acceptable, and that agency must do this in writing, in order for the Planning Board to make a similar finding.

Since the trip generation for the proposed development is projected to exceed 50 trips in either peak-hour, the applicant provided a TIA dated July 2019. Using data from this TIA, the following results were determined:

| EXISTING CONDITIONS        |                |             |
|----------------------------|----------------|-------------|
| Intersection               | AM             | PM          |
|                            | (LOS/CLV)      | (LOS/CLV)   |
| US 301 and MD 382          | C/1295         | B/1138      |
| US 301 and Osborne Road    | B/1075         | C/1185      |
| US 301 and Site Access *   | <50<br>seconds | <50 seconds |
| MD 382 and Site Access 1 * | <50<br>seconds | <50 seconds |
| MD 382 and Site Access 2 * | <50<br>seconds | <50 seconds |

\* Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using *The Highway Capacity Manual* (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition.

In evaluating the effect of background traffic, three background developments were identified in the TIA. In addition, a growth factor of 1.0 percent per year for six years was applied to the through traffic along US 301. A background scenario analysis based on future developments yielded the following results:

| BACKGROUND CONDITIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |             |             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|
| Interse<br>ction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | AM          | PM          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | (LOS/CLV)   | (LOS/CLV)   |
| US 301 and MD 382                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | E/1492      | C/1281      |
| US 301 and Osborne Road                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | C/1208      | D/1345      |
| US 301 and Site Access *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <50 seconds | <50 seconds |
| MD 382 and Site Access 1 *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <50 seconds | <50 seconds |
| MD 382 and Site Access 2 *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <50 seconds | <50 seconds |
| * Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using <i>The Highway Capacity Manual</i> (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition. |             |             |

Regarding the total traffic scenario, the subject property is currently improved with two single-family homes, and a gas station with six fueling positions. These two uses generate 42 AM and 48 PM existing trips. The proposed development of 75 townhomes and 9,965 square feet of commercial retail would generate 101 AM and 171 PM total trips. A full traffic analysis was not performed for a development of 50 townhomes and 9,965 square feet of commercial retail. However, based on the same trip generation rates used for the 75-townhome development, a development with 50 townhomes and no reduction in commercial square footage would generate 83 AM and 151 PM total trips.

| Table 1                                                   |              |            |             |              |            |            |
|-----------------------------------------------------------|--------------|------------|-------------|--------------|------------|------------|
| Trip Generation Summary                                   |              |            |             |              |            |            |
| Land Use                                                  | AM Peak Hour |            |             | PM Peak Hour |            |            |
|                                                           | In           | Out        | Total       | In           | Out        | Total      |
| Proposed retail – 9,965 square feet                       | 133          | 120        | 253         | 99           | 104        | 203        |
| <i>Less pass-by Trips</i>                                 | <i>-106</i>  | <i>-99</i> | <i>-205</i> | <i>-45</i>   | <i>-47</i> | <i>-92</i> |
| <b>New Retail Trips</b>                                   | <b>27</b>    | <b>21</b>  | <b>48</b>   | <b>54</b>    | <b>57</b>  | <b>111</b> |
| Proposed townhouses - 75 units                            | 7            | 46         | 53          | 39           | 21         | 60         |
| Proposed townhouses – 50 units                            | 5            | 30         | 35          | 26           | 14         | 40         |
| <b>Total Trips (new trip cap for 75 units) 1</b>          | <b>34</b>    | <b>67</b>  | <b>101</b>  | <b>93</b>    | <b>78</b>  | <b>171</b> |
| <b>Total Trips (new trip cap for 50 units) 2</b>          | <b>32</b>    | <b>51</b>  | <b>83</b>   | <b>80</b>    | <b>71</b>  | <b>151</b> |
| Existing Development                                      |              |            |             |              |            |            |
| Convenience Store                                         | 49           | 50         | 99          | 57           | 57         | 114        |
| <i>Less pass-by trips</i>                                 | <i>29</i>    | <i>30</i>  | <i>59</i>   | <i>34</i>    | <i>34</i>  | <i>68</i>  |
| Total convenience store trips                             | 20           | 20         | 40          | 23           | 23         | 46         |
| Single-Family – two units                                 | 0            | 2          | 2           | 1            | 1          | 2          |
| <b>Total existing (to be removed) 3</b>                   | <b>20</b>    | <b>22</b>  | <b>42</b>   | <b>24</b>    | <b>24</b>  | <b>48</b>  |
|                                                           |              |            |             |              |            |            |
| <b>Net new trips based on 75-unit redevelopment (1-3)</b> | <b>14</b>    | <b>45</b>  | <b>59</b>   | <b>69</b>    | <b>54</b>  | <b>123</b> |
| <b>Net new trips based on 50-unit redevelopment (2-3)</b> | <b>12</b>    | <b>29</b>  | <b>41</b>   | <b>56</b>    | <b>47</b>  | <b>103</b> |

Because the existing facilities are generating traffic, and will be subsequently razed, the trips associated with those uses will be subtracted from the total trips generated by the new development. Consequently, the total traffic was evaluated based on 59 AM and 123 PM net new trips (per a 75-unit development). A third analysis (total traffic) revealed the following results:

| TOTAL CONDITIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                         |                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------|
| Intersection                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | AM                      | PM                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | (LOS/CLV)               | (LOS/CLV)               |
| US 301 and MD 382<br><i>With mitigation</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>E/1518</b><br>D/1426 | <b>D/1318</b><br>D/1303 |
| US 301 and Osborne Road                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | D/1239                  | D/1446                  |
| US 301 and Site Access *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <50 seconds             | <50 seconds             |
| MD 382 and Site Access 1 *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <50 seconds             | <50 seconds             |
| MD 382 and Site Access 2 *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <50 seconds             | <50 seconds             |
| * Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using <i>The Highway Capacity Manual</i> (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition. |                         |                         |

The results of the traffic analyses show that under total traffic, all of the critical intersections are deemed to be operating adequately with the exception of the US 301/MD 382 intersection. To mitigate the failing intersection, the TIA recommends the following geometric changes:

- Reconfigure the intersection to provide an exclusive left lane and a shared through/right lane on the eastbound approach.

These changes will result in a lowering of the AM CLV by a margin of 92 fewer critical trips. Given that the proposed development added 26 CLV's, pursuant to the rules of mitigation (Section 24-124(a)(6)), the proposed improvements must remove at least 150 percent of the development generated CLV ( $1.5 \times 26 = 39$ ). This requirement was achieved. Consequently, the improvement given in the TIA will satisfy the transportation adequacy requirement pursuant to the use of mitigation.

#### Agency review

The TIA was referred to and reviewed by representatives from the Prince George's County Department of Public Works and Transportation (DPW&T), as well as the Maryland State Highway Administration (SHA). Since both off-site critical intersections are under the control of SHA, a memorandum from DPW&T deferred to SHA for comments. In a May 11, 2018 letter from SHA to Mike Lenhart, SHA addressed its comments and concerns regarding the TIA. In that letter, SHA expressed its concurrence with the TIA findings, and further states that no additional traffic analyses are required.

#### Master Plan Reservation

The property is located in an area where the development policies are governed by the Subregion 6 Master Plan and SMA, as well as the MPOT. Two of the recommendations from the master plans are the upgrade of US 301 to a freeway (F-10) and the creation of a

serviceroad (MC-602). Based on SHA's 1999 *US 301 Access Control Study*, the proposed alignments for both F-10 and MC-602 will have a significant impact on the subject property. If that alignment becomes the selected alternate for the future facilities, approximately 58 percent (8.83 acres) of the 15.36-acre site will have to be acquired by SHA as part of the overall right-of-way. To that end, staff prepared a letter to SHA (Burton to Woodroffe), regarding placement of the affected portion of the site in reservation. Specifically, the letter was seeking a written response from SHA acknowledging its willingness to acquire the reserved property, and an estimate regarding when such acquisition can be achieved. In an email from Mr. David Rodgers, Regional Planner from the Regional and Intermodal Planning Division of SHA, Mr. Rodgers informed staff that the Maryland Department of Transportation offers no comments regarding the reservation of the portion of F-10 that will impact this development. As a result of SHA's response, the required findings regarding initiation of reservation pursuant to Section 24-139 of the Subdivision Regulations, cannot be made. Therefore, no reservation will be required for any portion of the subject property.

As US 301 is currently an arterial road at the property location, the plan does include 6,808 square feet of right-of-way dedication to SHA along a portion of the property frontage, in order to bring the arterial to a standard 150-foot width. This dedication is not called for by MPOT because of US 301's planned upgrade to freeway classification. However, the right-of-way may be dedicated as shown on the plan if accepted by SHA.

#### **Variation Request**

The applicant requested a variation from Section 24-121(a)(3) with this application, which limits individual access to roads of arterial and higher classification. In executing this variation request, the applicant must meet several legal requirements pursuant to Section 24-113(a). Those requirements are shown in **BOLD** text with the applicant's response below:

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

Two access points are requested. The first access point is to align with and utilize the existing signal at the intersection of US 301 and South Osborne Road. The second access point is a right-in and right-out at the property's eastern frontage, which is approximately 160 feet south of the intersection with MD 382. Proposing an access point at the existing traffic signal provides safe access to the public right-of-way at a controlled intersection. The second access point, as a right-in and right-out, allows an additional point of access with controlled movement. The construction of both driveways will be in accordance with all requisite agency approval(s), as to design standards. In front of the subject property, with the exception of the existing traffic light, US 301 is a divided road with only eastbound travel lanes and right-in and right-out movements available to access the property. Both access points are designed to provide safe ingress and egress to the parcel, so as to not jeopardize the flow of traffic along US 301.

Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other properties.

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

The subject property and conditions on which the variation is based are unique since US 301 is the only access point available for the retail portion of the development. There is a change in topography of the property which has a high point fronting US 301 sloping down to the back of the property, and the areas of development are further restricted by the primary management area (PMA) that encumbers approximately six acres of the property over the southern portions of the property. The development includes two separate areas; a commercial/retail area fronting on US 301, and a single-family attached residential development that will access MD 382. There are no internal streets or service roads accessible in the area. Without access to US 301, the retail/commercial portion of the site would not be buildable, because there are no other options for access.

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

Since the applicant will be required to obtain DSP approval prior to obtaining any building permits, the approval of this variation request will not constitute a violation of other applicable laws. In addition, the driveways will be designed in direct coordination with SHA, in order to meet all requisite requirements and design standards.

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

Due to the particular physical surroundings, with the adjacent properties improved with a CVS Pharmacy to the east and single-family detached residences, the denial of this variation request would result in a hardship to the property owner. As indicated above, US 301 is the only access point available for the retail/commercial portion of the site. There is no other option for access that exists at this time.

- (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 requirement is not applicable because the site is zoned C-S-C and R-R; therefore, this provision does not apply.

The required findings of Section 24-113 have been adequately addressed by the applicant. Therefore, the variation to Section 24-121(a)(3) for direct access to an arterial roadway is approved.

Private roads and alleys are included in this development; internal access and circulation are acceptable. The use of private streets and alleys to serve the subdivision is permissible according to Section 24-128 of the Subdivision Regulations, and is further discussed in the finding below.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision as required, in accordance with Section 24-124.

11. **Private Roads and Alleys**—The residential portion of the subject site includes private roads and alleys in the R-R Zone. This is permissible under Section 24-128(b)(19), which allows the Planning Board to approve private streets and alleys under certain circumstances in the R-R and C-S-C zones, among others. This provision of the Subdivision Regulations was enacted under CB-81-2018 (DR-1), approved by the County Council on October 23, 2018, and signed by the County Executive on November 14, 2018. The private roads and alleys included with this development have acceptable internal access and circulation. Therefore, the subdivision satisfies the requirements of Section 24-128.
12. **Schools**—This PPS was reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations and Council Resolution CR-23-2003 for the residential units proposed, and the following is concluded:

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

| Affected School Clusters               | Elementary School Cluster<br>6 | Middle School<br>Cluster 6 | High School<br>Cluster 6 |
|----------------------------------------|--------------------------------|----------------------------|--------------------------|
| Dwelling Units                         | 75                             | 75                         | 75                       |
| Pupil Yield Factor                     | 0.145                          | 0.06                       | 0.108                    |
| Total Future Subdivision<br>Enrollment | 11                             | 6                          | 8                        |
| Actual Enrollment in 2018              | 4,795                          | 1,923                      | 2,471                    |
| Total Enrollment                       | 4,806                          | 1,929                      | 2,479                    |
| State Rated Capacity                   | 6,401                          | 2,490                      | 3,754                    |
| Percent Capacity                       | 75%                            | 77%                        | 66%                      |

Section 10-192.01 establishes school surcharges and an annual adjustment for inflation. The current amount is \$16,698 as this project is located outside of the I-495 Capital Beltway. This fee is to be paid at the time of issuance of each building permit.

**Nonresidential**

The commercial portion of the subdivision is exempt from a review for schools because it is a nonresidential use.

13. **Public Facilities**—In accordance with Section 24-122.01, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated December 23, 2019 (Hancock to Diaz-Campbell), incorporated by reference herein.
14. **Use Conversion**—The total development approved in this PPS is for 50 single-family attached dwellings and 9,965 square feet of commercial development in the R-R and C-S-C Zones. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, that revision of the mix of uses would require approval of a new PPS prior to approval of any building permits.

15. **Public Utility Easement (PUE)**—Section 24-122(a) requires 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 PUEs is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on public rights-of-way MD 382 to the northeast and US 301 to the northwest. The required PUEs along the public streets are delineated on the PPS, with the exception of two stretches of US 301 frontage near the southeast corner of the site where the right-of-way line extends deeper than usual into the property. PUEs must be delineated in these locations. Private streets are also included, which require PUEs. Section 24-128(b)(12) requires that 10-foot-wide PUEs be provided along one side of all private streets; the PPS meets this requirement.

16. **Historic**—The project will have no impact on any designated Prince George’s County historic sites, resources or districts. The brick ranch house on Lot 1 was built in 1967. The residence on Lot 3 was constructed in 1996. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. A Phase I archeology survey is not required on the subject property. This proposal will not impact any historic sites, historic resources, or known archeological sites.

17. **Environmental**—The following applications and associated plans were reviewed for the subject site:

| Development Review Case # | Associated Tree Conservation Plan # | Authority         | Status                 | Action Date | Resolution Number |
|---------------------------|-------------------------------------|-------------------|------------------------|-------------|-------------------|
| NRI-182-2017              | NA                                  | Planning Director | Approved               | 11/02/17    | NA                |
| NRI-182-2017- 01          | NA                                  | Planning Director | Approved               | 08/13/2018  | NA                |
| 4-17039                   | TCP1-003-2018                       | Planning Board    | Withdrawn              | NA          | NA                |
| 4-18016                   | TCP1-003-2018                       | Planning Board    | Pending                | Pending     | Pending           |
| DSP-18009                 | TCP2-XXX-XXXX<br>(Not yet assigned) | Planning Board    | Pre-application review | Pending     | Pending           |

#### **Grandfathering**

The site is subject to the environmental regulations contained in Subtitles 24, 25, and 27 that came into effect on September 1, 2010 and February 1, 2012, and specifically to the 2010 Woodland and Wildlife Habitat Conservation Ordinance (WCO) and the Environmental Technical Manual.

### **Site Description**

The subject property is located in the southeast quadrant of the intersection of US 301 and MD 382, and surrounds an existing commercial property recently developed as a CVS Pharmacy.

A review of the available information identified regulated environmental features such as areas of steep slopes, 100-year floodplain, streams, associated buffers, and PMA on-site. Nontidal wetlands and associated buffers were also identified on-site. The site is characterized by terrain sloping toward the west and south of the subject property and drains into the Charles Branch watershed in the Patuxent River basin. The site is not located in a Stronghold Watershed or a Tier II Catchment or stream segment.

The predominant soils found on site according to the US Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey include the Collington-Wist-Urban Land Complex, Udorthents, Urban Land, and Widewater and Issues soils. According to available information, no Marlboro clay or Christiana complexes exist on-site. This site is not within a sensitive species protection review area (SSPRA) based on a review of the SSPRA GIS layer prepared by the Maryland Department of Natural Resources Natural Heritage Program. According to PGAtlas, there are potential forest interior dwelling species (FIDS) habitat on-site. This site is not within an Aviation Policy Area associated with an airport. The site shares frontage on MD 382, which is a special roadway designated as a historic road and/or scenic road. The site abuts US 301, classified as an arterial/future freeway, which is a source of significant traffic-generated noise that may impact the residential use of the site.

According to the 2017 Countywide Green Infrastructure Plan (Green Infrastructure Plan), there are regulated, and evaluation areas located on the overall site, but the site is not located in, or abutting, a special conservation area. The property is in a priority funding area.

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

The site is 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. Its Generalized Future Land Use is Residential Low as designated by Plan 2035.

### **Countywide Green Infrastructure Plan (2017)**

The Green Infrastructure Plan was approved with the adoption of the *Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017). According to the Green Infrastructure Plan, the site contains one regulated area along the eastern boundary of the property, more than half of the site contains Regulated Area, while the remainder is designated as Evaluation Area.

The subject property contains a section of Charles Branch and its associated buffers which flows eastward to connect to the Patuxent River Corridor and is a designated Special Conservation Area. Efforts to protect the entire Patuxent watershed began in the 1960s through Maryland's Patuxent River Watershed Act, encouraging the seven counties adjacent to the river to preserve its natural lands. M-NCPPC owns more than 7,400 acres of marshes, swamps and woodlands

along the river, known collectively as the Patuxent River Park. Together, with thousands of acres owned by the Maryland Department of Natural Resources and other counties, protected lands along the Patuxent compose one of Maryland's premier greenways.

The preservation of the natural environment and the river's scenic character along this corridor are priorities. To this end, much of the Patuxent River watershed was designated in the Rural and Agricultural Area by Plan 2035. The low-density zoning and the conservation methods proposed in the General Plan support the protection of the green infrastructure corridors of the river and its tributaries.

The following policies and strategies in bold are applicable to the subject application. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

**POLICY 1: Preserve, enhance and restore the green infrastructure network and its ecological functions while supporting the desired development pattern of Plan Prince George's 2035.**

**1.1 Ensure that areas of connectivity and ecological functions are maintained, restored and/or established by:**

- a. **Using the designated green infrastructure network as a guide to decision-making and using it as an amenity in the site design and development review processes.**
- b. **Protecting plant, fish, and wildlife habitats and maximizing the retention and/or restoration of the ecological potential of the landscape by prioritizing healthy, connected ecosystems for conservation.**
- c. **Protecting existing resources when constructing stormwater management features and when providing mitigation for impacts.**
- d. **Recognizing the ecosystem services provided by diverse land uses, such as woodlands, wetlands, meadows, urban forests, farms and grasslands within the green infrastructure network and work toward maintaining or restoring connections between these landscapes.**

**1.2 Ensure that Sensitive Species Project Review Areas and Special Conservation Areas (SCAs), and the critical ecological systems supporting them, are preserved, enhanced, connected, restored and protected.**

- a. **Identify critical ecological systems and ensure they are preserved and/or protected during the site design and development review processes.**

A significant portion of the site is designated as PMA and provides habitat and an eco-services corridor linked to the Patuxent River Corridor. The Charles Branch, which crosses the subject property, is a designated stream valley park which links to the Patuxent River Park along a Green Infrastructure corridor planned for conservation through public ownership, preservation and enhancement.

Impacts to regulated areas are discussed in more detail below under the "Preservation of Regulated Environmental Features/Primary Management Area" heading within this finding.

**POLICY 2: Support implementation of the 2017 GI Plan throughout the planning process.**

- 2.4 Identify Network Gaps when reviewing land development applications and determine the best method to bridge the gap: preservation of existing forests, vegetation, and/or landscape features, and/ or planting of a new corridor with reforestation, landscaping and/or street trees.**
- 2.5 Continue to require mitigation during the development review process for impacts to regulated environmental features, with preference given to locations on-site, within the same watershed as the development creating the impact, and within the green infrastructure network.**
- 2.6 Strategically locate off-site mitigation to restore, enhance and/or protect the green infrastructure network and protect existing resources while providing mitigation.**

The preservation of regulated environmental features within the Green Infrastructure network to the fullest extent possible, as well as mitigation and restoration opportunities on-site, were evaluated during review of the Type 1 tree conservation plan (TCP1). Preservation of regulated environmental features is discussed in the Environmental Review section of this finding.

**POLICY 3: Ensure public expenditures for staffing, programs, and infrastructure support the implementation of the 2017 GI Plan.**

- 3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.**
  - b. Locate trail systems outside the regulated environmental features and their buffers to the fullest extent possible. Where trails must be located within a regulated buffer, they must be designed to minimize clearing and grading and to use low impact surfaces.**

Environmental impacts related to trail connections for the Charles Branch Stream Valley Park will be evaluated after the location of the stream valley park trail is confirmed with DPR and

potential impacts are located and quantified on the plans for review. Additional environmental impacts associated with construction of the stream valley park trail are deferred until DSP and Type 2 tree conservation plan (TCP2) review if the trail is to be constructed by the applicant. If the trail will be constructed separately by DPR in the future, environmental impacts will be evaluated with the review of construction design for the project.

**POLICY 4: Provide the necessary tools for implementation of the 2017 GI Plan.**

- 4.2 Continue to require the placement of conservation easements over areas of regulated environmental features, preserved or planted forests, appropriate portions of land contributing to Special Conservation Areas, and other lands containing sensitive features.**

Conservation easements are required for the subject application, because areas on-site are identified within the PMA for retention. These will be addressed at time of final plat. The areas of on-site woodland conservation will be required to be placed in Woodland and Wildlife Habitat Conservation Easements prior to the approval of the TCP2.

**POLICY 5: Improve water quality through stream restoration, stormwater management, water resource protection, and strategic conservation of natural lands.**

- 5.8 Limit the placement of stormwater structures within the boundaries of regulated environmental features and their buffers to outfall pipes or other features that cannot be located elsewhere.**
- 5.9 Prioritize the preservation and replanting of vegetation along streams and wetlands to create and expand forested stream buffers to improve water quality.**

An approved SWM concept letter and plan in conformance with the current code were submitted with the application package. The Site/Road Plan Review Division of DPIE will review the project for conformance with the current provisions of the County Code, that addresses the state regulations. Woodland conservation in riparian buffers is consider a priority location. Most of the woodland in the protected floodplain will be preserved.

**POLICY 7: Preserve, enhance, connect, restore and preserve forest and tree canopy coverage.**

**General Strategies for Increasing Forest and Tree Canopy Coverage**

- 7.1 Continue to maximize on-site woodland conservation and limit the use of off-site banking and the use of fee-in-lieu.**

- 7.2 Protect, restore and require the use of native plants. Prioritize the use of species with higher ecological values and plant species that are adaptable to climate change.**
- 7.4 Ensure that trees that are preserved or planted are provided appropriate soils and adequate canopy and root space to continue growth and reach maturity. Where appropriate, ensure that soil treatments and/ or amendments are used.**

The TCP1 was reviewed in accordance with the Woodland and Wildlife habitat Conservation Priorities established in the local ordinance, Section 25-121-(b), with the highest priority woodland conservation being green infrastructure network elements designated in the Countywide Green Infrastructure Plan. Retention and planting of native species on-site is both prioritized and required by the Environmental Technical Manual, and the Prince George's County Landscape Manual.

#### **Forest Canopy Strategies**

- 7.12 Discourage the creation of new forest edges by requiring edge treatments such as the planting of shade trees in areas where new forest edges are proposed to reduce the growth of invasive plants.**
- 7.13 Continue to prioritize the protection and maintenance of connected, closed canopy forests during the development review process, especially in areas where FIDS habitat is present or within Sensitive Species Project Review Areas.**
- 7.18 Ensure that new, more compact developments contain an appropriate percentage of green and open spaces that serve multiple functions such as reducing urban temperatures, providing open space, and stormwater management.**

Clearing of woodland will occur with the subject application. Woodland conservation is designed to retain contiguous blocks of woodlands, maintain connectivity, minimize fragmentation and reinforce new forest edges to the extent possible. The retention of potential FIDS habitat and green infrastructure corridors is also strongly encouraged. Green space is encouraged in compact developments to serve multiple eco-services.

#### **POLICY 12: Provide adequate protection and screening from noise and vibration.**

- 12.2 Ensure new development is designed so that dwellings or other places where people sleep are located outside designated noise corridors. Alternatively, mitigation in the form of earthen berms, plant materials, fencing, or building construction methods and materials may be used.**

The unmitigated 65dBA Ldn noise contour is reflected on the TCP1. A Phase 2 Noise Study was submitted with this application from Phoenix Noise and Vibration, LLC, and existing traffic noise levels were measured and calculated with CadnaA software. Based on the location of the unmitigated 65 dBA Ldn noise contour, 20 of the proposed townhouse lots will be impacted by noise levels. These impacts can be mitigated through the use of enhanced building materials to mitigate noise to 45 dBA Ldn or less.

#### **Area Master Plan Conformance**

The Subregion 6 Master Plan and SMA was approved on July 24, 2013, via Council Resolutions CR-82-2013 and CR-83-2013. It contains the following policies and strategies within the Environment chapter; the text in **bold** is from the master plan, while the plain text provides comments on plan conformance.

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

#### **Strategies**

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

The development site is not located in a special conservation area, but is located in a secondary corridor, Charles Branch, and contains regulated areas and evaluation areas, as designated in the Green Infrastructure Plan.

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

**Strategies**

- 1. Protect and restore groundwater recharge areas such as wetlands and the headwaters areas of streams and watersheds.**
- 3. Require retrofitting of locations without stormwater management or with poorly performing facilities as they are identified during the development review process.**
- 4. Define and identify operations and activities that create stormwater management “hotspots” to adjust development and enforcement as necessary for pollution prevention.**
- 5. Require private developers to perform stream corridor assessments where one has not already been conducted when development along stream corridors without completed assessments is proposed. Use the outcome of these assessments to guide restoration requirements upon which development approval will be contingent.**
- 7. Require environmentally-sensitive site design which includes limiting impervious surfaces and implementing best practices in on-site stormwater management to reduce the impact of development on important water resources.**

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

**Environmental Review**

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

**Natural Resource Inventory**

A copy of NRI-182-2017-01, approved on August 13, 2018, was submitted with the application. During the review of the current application, an error was identified in the NRI statistics table which affect the calculation of the woodland conservation requirement and needs to be revised.

According to the NRI this site contains 15.36-acres of gross tract area, and 5.53 acres of 100-year floodplain, which would result in a corrected net tract area of 9.83 acres. The site statistics table indicates that 0.1563 acre of future right-of-way dedication was deducted from the gross tract in calculating the net tract. The deduction of the proposed right-of-way dedication from the gross tract area is not allowed in determining the net tract area for determining woodland conservation requirements. The -01 NRI will require revisions prior to signature approval of the TCP2 to accurately show the NRI site statistics and reconcile with the site statistics shown on the TCP1 site statistics table and woodland conservation worksheet. Conditions addressing required revisions to the NRI and TCP1 are included in this resolution.

Regulated environmental features including steep slopes, 100-year floodplain, streams, and associated buffers, nontidal wetlands and associated buffers are delineated on-site as the PMA, consisting of 6.52 acres. Potential forest interior dwelling species habitat exists on-site, linking the green infrastructure corridor along Charles Branch, east and west of the development site with the Patuxent River.

#### **Woodland Conservation**

This site is subject to the provisions of the WCO because the property is greater than 40,000 square feet in size and contains more than 10,000 square feet of existing woodland. A Type 1 Tree Conservation Plan (TCP1-003-2018) was submitted with the subject application.

Based on the current NRI, the net tract area is 9.63- acres. A deduction for 0.16 acres of SHA dedication, to be deducted as previously dedicated, does not meet criteria to be deducted. The net tract area for calculating the woodland conservation area on this site is 9.83 acres. The revised gross tract area of 9.83-acres is used in calculating the correct woodland conservation requirements for the site.

The site is split-zoned R-R and C-S-C and has a woodland conservation threshold of 18.70 percent of the net tract acre. According to the worksheet provided on the TCP1, the cumulative woodland conservation requirement based on the total clearing of 4.05 acres of woodlands outside of the floodplain and 0.05 acre of woodlands inside of the floodplain for this project, is 3.63 acres. The TCP1 meets this requirement with 0.79 acre of on-site preservation, 0.75 acre of on-site afforestation/reforestation, and 2.08 acres of off-site woodland conservation.

Correction to the net tract area previously described results in a woodland conservation of 3.67 acres. Because there are no additional locations for woodland conservation available on-site, the additional requirement will be provided off-site. The worksheet requires revisions to correctly calculate the requirement and demonstrate how the full requirement will be met.

Technical revisions to the TCP1 will result in changes to the amount of on-site woodland conservation that can be provided. The most significant revision is that woodland conservation shall not be credited within the master-planned right-of-way crossing the site; this is necessary to ensure the TCP1 is in compliance with Subtitle 25-122(b)(1)(N)(v) and (vi). The TCP1 also requires technical revisions prior to certification.

### **Specimen Trees**

Section 25-122(b)(1)(G) requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree's condition and the species' ability to survive construction as provided in the Environmental Technical Manual."

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

A Subtitle 25 Variance Application, and a revised statement of justification (SOJ) dated December 2, 2019, were submitted with the current application and include a request to remove five (5) specimen trees. The five trees are identified as SP-1, SP-2, SP-4, SP-34, and SP-39 which are a 38-inch red maple, a 34-inch yellow poplar, a 36-inch American beech, a 30-inch yellow poplar, and a 33-inch sycamore, respectively.

Trees SP-1 (38-inch DBH red maple) and SP-2 (34-inch DBH yellow poplar) were noted as in fair condition with significant dead limbs and failing branches, as well as old wounds and some cavities. These two trees are located in the northern portion of the site near US 301, just outside of the limits of disturbance for a SWM facility. It is noted that yellow poplars are construction sensitive. Final condition scores were not provided for these trees, both of which were described as in fair condition with dead limbs, failed branches, old wounds and cavities.

Tree SP-4 is a 36-inch American beech located in the central portion of the site and is to be removed to accommodate necessary grading and adjacent infrastructure. It has a final condition rating of fair.

Tree SP-34, a 30-inch DBH yellow poplar, is to be removed to provide necessary grading to tie-in the proposed development to the steep slopes existing on-site. Yellow poplars are known to be very sensitive to construction within the root zone because of their tuberous roots. It has a final condition rating of 87.5 (good).

Tree SP-39 is a 33-inch DBH sycamore is located near the northern portion of the site and is to be removed to accommodate proposed lots 50 and 51 and associated infrastructure for the overall development. It has a final condition rating score of 79.5 (good).

All specimen trees within the project were identified on the approved Natural Resource Inventory Plan and were revised per a follow-up field visit in December 2017. These revisions are reflected on the TCP1 submitted with the PPS for this project.

**Statement of Justification Request**

A variance from Section 25-122(b)(1)(G) is requested for the clearing of the five specimen trees on-site. The Subtitle Variance Application form requires an SOJ of how the findings are being met.

**Section 25-119(d)(1)**

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

The grading cannot be minimized further to avoid the removal of trees SP-1, SP-2, SP-4, SP-34 and SP-39. Retaining walls are used throughout the site to minimize the extents of grading activities and avoid further impacts to the regulated environmental features including the 100-year floodplain, PMA, and wetland and stream buffers on-site. The overall development has been designed to avoid these environmental constraints.

More than 30 percent of the critical root zone of trees SP-1 and SP-2 will be impacted by the stormwater pond, which cannot be shifted due to the necessary parking area to the east.

Tree SP-4 is located in the central portion of the site and is to be removed in order to accommodate appropriate grading and adjacent infrastructure.

Tree SP-34 is located along the back of proposed Lot 20 and appropriate grading is necessary to support the residences in this location, as well as provide access around these lots.

SP-39 is located where Lots 50 and 51 are proposed and losing these lots is not practicable.

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

Approval of this variance request to remove specimen trees is in line and consistent with Prince George's County's expectations with regard to site development.

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

The granting of this variance does not constitute a special privilege as the strict requirements for site development must be adhered to for this development regardless of the presence of specimen trees.

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

The applicant has not created the conditions or circumstances leading to the necessity to remove the three specimen trees on-site. The site must be appropriately graded to support the infrastructure and accommodate surface runoff.

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

Neighboring properties to the south are undevelopable as it contains Charles Branch and its associated floodplain. The request does not arise from a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.

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

Granting the variance to remove five specimen trees will not directly affect water quality because the site will have to follow strict SWM requirement and sediment control. Specific requirements regarding SWM for the site will be further reviewed by DPIE. Granting of the variance will not affect water quality. The overall development includes SWM that will provide both water quality and quantity control. Further, no permanent impacts to wetlands or other waters including Charles Branch are included. Impacts to regulated environmental features have been minimized, to the extent possible, on-site.

The required findings of Section 25-119(d) have been adequately addressed by the applicant. The variance to Section 25-122(b)(1)(G) for the removal of Specimen Trees 1, 2, 19, 34, and 39 is therefore approved.

**Preservation of Regulated Environmental Features/Primary Management Area**

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 SWM facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. Stormwater management outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code.

The site contains regulated environmental features. According to the TCP1, impacts to the PMA/stream buffer and the 100-year floodplain are included for SWM. A SOJ has been received for the impacts to the PMA, inclusive of the stream buffer and floodplain.

### **Statement of Justification**

This application includes a request for approval of permanent impacts to regulated environmental features totaling 6,027 square feet (0.14 acre) of PMA and temporary impacts to 31 linear feet of ephemeral stream channel (226 square feet). No impacts to wetlands or wetland buffers are included.

The site contains a total of approximately 6.53 acres of PMA. The PMA comprises 638 linear feet of regulated streams and associated 75-foot-wide stream buffers, as well as wetlands, wetland buffers, floodplain, and areas of steep slopes. The PMA is generally located on the southern half of the property. The existing PMA is 43 percent of the total site area. The site contains approximately 35,387 square feet (0.81 acre) of wetlands and approximately 78,309 square feet (1.80 acres) of wetland buffers.

The majority of the PMA defined on-site is associated with the floodplain areas of Charles Branch, which extends from west to east along the southern boundary of the site. Additional PMA encompasses the stream buffers on-site where they extend beyond the floodplain. The work for this development has been placed outside of the PMA (floodplain) to avoid impacts to the extent possible, except for necessary stormwater outfall and pipe installation. The PMA associated with this site can be found on the Natural Resources Inventory (NRI-182-2017-01) which was prepared by Maser Consulting and approved April 13, 2018.

Impacts 1 through 6 are associated with this PPS and are described below:

**Impact 1**, includes 42 square feet of permanent impacts to the PMA for the installation of a stormwater outfall.

- a. **Avoidance Justification**—The installation of appropriate stormwater management including outfalls is an essential part of the project. The PMA in this impact location is based on the floodplain boundary and elevation in this low area, and the impact to the PMA area is negligible. The outfall has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for the outfall has been minimized to the extent possible while allowing for installation of necessary stormwater management infrastructure.

**Impact 2**, includes 320 square feet of permanent impact to the PMA to allow for the installation of a storm drainpipe.

- a. **Avoidance Justification**—The grading impact is necessary to install infrastructure and support adjacent houses proposed outside of the PMA. The houses and supportive grading cannot be shifted due to the other environmental and infrastructure constraints on-site.

- b. **Minimization Justification**—The impact area has been minimized to the amount practicable. The limits of disturbance cannot be minimized any further.

**Impact 3**, includes 2,663 square feet of permanent impact to the PMA for the installation of a stormwater outfall, as well as temporary impacts to 31 linear feet (226 square feet) of ephemeral stream to allow construction access for the outfall.

- a. **Avoidance Justification**—The installation of appropriate stormwater management including outfalls is an essential part of the project. The outfall has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for the outfall has been minimized to the extent possible while the limits of disturbance have been minimized to the minimum width that will allow for construction access and installation. The outfall must be placed within the PMA based on the topography of the site.

**Impact 4**, includes 2,147 square feet of permanent impacts to the PMA for the installation of a sanitary sewer line

- a. **Avoidance Justification**—The installation of sanitary sewer line is an essential part of the project. The sewer line has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for the outfall has been minimized to the extent possible while allowing for installation. The limits of disturbance have been reduced to the minimum width that will allow for construction access and sewer installation. The sewer line must be placed within the PMA based on the topography of the site.

**Impact 5**, includes permanent impacts to 53 square feet of PMA for the installation of a stormdrain pipe.

- a. **Avoidance Justification**—The stormdrain pipe is necessary to support the proposed houses located outside of the PMA. The houses and supportive grading cannot be shifted due to the other environmental and infrastructure constraints on site.
- b. **Minimization Justification**—The impact area has been minimized to the amount practicable. The limit of disturbance cannot be minimized any further.

**Impact 6** includes impacts to 802 square feet of PMA and stream buffer area for the connection of the storm drainpipe to the existing culvert under MD 382.

- a. **Avoidance Justification**—The area of the limits of disturbance and the storm drain installation have been minimized to the extent possible to properly construct the storm drain.
- b. **Minimization Justification**—The clearing is the minimum necessary to properly install the storm pipe. The pipe must be placed within the PMA because of the connection to an existing culvert.

Based on the level of design information currently available, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of disturbance shown on the impact exhibits and the tree conservation plan submitted for review. Impacts 1, 2, 3, 4 5 and 6 are supported, with conditions, based on the development proposal.

18. **Urban Design**—Council Bill CB-75-2018 amends the Zoning Ordinance and permits townhouses in both the R-R and C-S-C Zones, subject to three conditions as prescribed in Footnote 120 of Section 27-441(b) and Footnote 68 of Section 27 461(b) respectively. CB-75-2018 also requires DSP approval for both zones and further requires the DSP to include the R-R and C-S-C zoned properties.

In addition, CB-75-2018 specifies that the requirements applicable to a Regional Community in the M-X-T Zone as set forth in Section 27-544 (f)(2) (E) and (G) shall be used to review the development, as follows:

- (E) **The maximum number of townhouse dwelling units per building group shall be ten (10). No more than thirty percent (30%) of the building groups shall contain nine (9) to ten (10) dwelling units. All other townhouse building groups shall contain no more than eight (8) dwelling units.**

The submitted PPS meets this requirement. No building group has townhouse dwelling units that exceed eight.

- (F) **The number of parking spaces required in the core area of the Regional Urban Community are to be calculated by the applicant and submitted for Planning Board approval at the time of Detailed Site Plan approval. The applicant shall submit the methodology, assumptions, and data used in performing the calculations with the Detailed Site Plan. The number of parking spaces within the core area of the Regional Urban Community shall be calculated based on the procedures described in Sections 27-574(b) and (c).**

This requirement will be reviewed for conformance at time of DSP. However, from the layout submitted with this PPS, the applicant does not

provide additional parking for visitors. Further review of the parking issue will be carried out at time of DSP.

- (G) **End units on townhouse building groups shall be a minimum of twenty (20) feet in width and the minimum building width of a contiguous attached townhouse building group shall be sixteen (16) feet per unit. A variety of townhouse sizes shall be provided, with a minimum gross living space of a townhouse unit shall be 1,500 square feet except that ten percent (10%) of the townhouse units may be reduced to 1,200 square feet.**

Lot 27 is not 20 feet in width at the front lot line, but does widen to 35 feet. The rest of the PPS meets this requirement for the end units because all proposed lots have 20 feet of lot width. A variety of townhouse sizes will be required at time of DSP when the rest of the unit size requirements will be evaluated for conformance.

#### **Conformance with the 2010 Prince George's County Landscape Manual**

The proposal is subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Specifically, the proposal is subject to Section 4.1, Residential Requirements; Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6 Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements, and Section 4.10, Street Trees Along Private Streets. Conformance to these requirements will be evaluated at the time of DSP review.

Specifically, the applicant must provide enough space between the R-R zoned property and the C-S-C Zoned property in order to accommodating a Type C bufferyard at time of DSP in accordance with Section 4.7 Buffering Incompatible Uses of the Landscape Manual.

#### **Tree Canopy Coverage Ordinance**

The development is subject to the Tree Canopy Coverage Ordinance because it will require a building and/or grading permit that creates more than 5,000 square feet of disturbance. This ordinance requires 10 percent tree canopy coverage for properties zoned C-S-C and 15 percent for properties zoned R-R. This requirement can be met either through woodland conservation, proposed on-site landscaping, or a combination, and will be evaluated at the time of DSP review.

#### **Recreational Facilities**

Although land dedication is approved to meet the mandatory parkland dedication requirement, given the nature of the housing products to be proposed with this PPS that will be most likely purchased by young families, proper recreational facilities should be provided in this development to serve toddlers. Though some recreation facilities are included near the boundary between the residential and commercial portions of the site, the

submitted PPS does not show sufficient usable open space has been provided in a centrally located part of the subdivision. The provision of a centrally located usable open space with recreational facilities may result in loss of lots. The specific recreational facilities will be reviewed at time of DSP.

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, January 30, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of February 2020.

Elizabeth M. Hewlett  
Chairman

  
By Jessica Jones  
Planning Board Administrator

EMH:JJ:EDC:nz

APPROVED AS TO LEGAL SUFFICIENCY.  
  
M-NCPPC Legal Department  
Date 3/3/2020