



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
[www.pgplanning.org](http://www.pgplanning.org)

PGCPB No. 2022-90(C)

File No. 4-21013

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

WHEREAS, FV Flowers Road LLC is the owner of a \*~~[48.30]~~ 53.21-acre tract of land known as Parcels 84, 132, \*133, ~~[and]~~ 134, and 349, and Part of Lot 1, said property being in the 6th Election District of Prince George's County, Maryland, and being zoned Industrial, Employment (IE) and Military Installation Overlay (MIO); and

WHEREAS, on May 25, 2022, FV Flowers Road LLC filed an application for approval of a Preliminary Plan of Subdivision for 5 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21013 for Vista 95 was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on July 28, 2022; and

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

WHEREAS, pursuant to Section 24-1900 of the Subdivision Regulations, subdivision applications submitted and complete before April 1, 2024, may be reviewed and decided in accordance with the prior Subdivision Regulations; and

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

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

WHEREAS, on July 28, 2022, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-011-2022, and APPROVED a Variance to Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-21013, including a Variation from Section 24-122(a), for 5 Parcels with the following conditions:

\*Denotes Correction

Underlining indicates new language

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

1. Prior to signature approval, the preliminary plan of subdivision shall be revised as follows.
  - a. Label Parcels 4 and 5 as Parcels A and B (to be conveyed to a business owners association) or have their area consolidated into the abutting development parcels.
2. Development of the site shall be in conformance with the Stormwater Management Concept Plan (18078-2021-00), once approved, and any subsequent revisions.
3. Any residential development of the subject property shall require a new preliminary plan of subdivision and certificate of adequacy.
4. Prior to approval, the final plat of subdivision shall include:
  - a. Right-of-way dedication along all roadways, in accordance with the approved preliminary plan of subdivision and as reflected in Condition 13.
  - b. Unless nondevelopment parcels are consolidated in accordance with Condition 1a, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a business owners association has been established for the subdivision. The draft covenants shall be submitted to the Development Review Division of the Prince George's County Planning Department along with the final plat for review, 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.
5. Unless nondevelopment parcels are consolidated in accordance with Condition 1a, prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the 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 recorded deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division, of the Maryland-National Capital Park and Planning Commission.
  - 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 operations 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 of the Prince George's County Planning Department.
  - 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.
6. Prior to signature approval of the Preliminary Plan of Subdivision, the Type 1 tree conservation plan (TCP1) shall be revised, as follows:
- a. The hatch patterns shown on the plan and in the legend shall be revised to utilize the standard symbology as shown in the 2018 *Environmental Technical Manual*.
  - b. The woodlands within the dedicated master-planned right-of-way shall be counted as woodland retained-assumed cleared.
  - c. The natural resources inventory shall be revised, prior to signature approval of the TCP1 to show the site statics as surveyed with the TCP1 for conformance.
7. Reduce the length of the developed portion of Presidential Parkway (MC-634), to the extent that the grading in primary management area Impact 3 is minimized or eliminated. Prior to approval of the detailed site plan (DSP), additional correspondence shall be provided demonstrating that the applicant has consulted with the road operating agency, in order to reduce the length of the right-of-way to address this condition. Final determination as to the extent of the minimization or elimination will be determined with the DSP approval.
8. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan TCP1-011-2022. The following note shall be placed on the final plat of subdivision:
- “This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-011-2022 or most recent revision), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation

Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."

9. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the final plat of subdivision:

"This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 Tree Conservation Plan, when approved."
10. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area except for any approved impacts and shall be reviewed by the Environmental Planning Section, prior to approval of the final plat. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."
11. Prior to issuance of any permits which impact 100-year floodplain, 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. Prior to issuance of the first permit, the Final Erosion and Sediment Control Plan shall be submitted. The limits of disturbance on the Final Erosion and Sediment Control Plan shall be consistent with the Type 2 tree conservation plan.
13. Prior to signature approval of the preliminary plan of subdivision (PPS), the PPS should be revised to include the following:
  - a. Modification to the general notes that specifies the total land area of right-of-way dedication for each specific master plan roadway provided on the PPS.
  - b. Show adequate right-of-way dedication for Westphalia Road (A-37) on the subject property consistent with the approved 2009 *Countywide Master Plan of Transportation* recommendation.
14. Prior to issuance of any building permits within the subject property, the following road improvements shall: (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

- a. Approximately 2,800 linear feet of Presidential Parkway (MC634), extended from its intersection of Westphalia Road, along the site, as shown on the approved PPS, or construct an alternate interim configuration if determined by the operating agency that is sufficient to provide access to the proposed development.
15. Prior to approval of a detailed site plan (DSP), the applicant and the applicant's heirs, successors, and/or assignees shall include, as part of the DSP, the following:
  - a. A minimum 10-foot-wide side path along the subject property's frontage of Westphalia Road (A-37), unless modified by the operating agency, with written correspondence.
  - b. A minimum 10-foot-wide side path along one side of Presidential Parkway (MC-634) and a sidewalk on the other side of Presidential Parkway (consistent with development associated with Detailed Site Plan, DSP-18020 to the south) unless modified by the operating agency with written correspondence.
  - c. On-site pedestrian connections between all buildings.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on the north side of Westphalia Road, at its intersection with Flowers Road, and on the east side on I-95/495 (Capital Beltway) and consists of ~~\*[48.3]~~ 53.21 acres. The subject property is comprised of five parcels, and part of one lot recorded by deed in the Prince George's County Land Records and known as Parcel 84, recorded in Liber 10872 at folio 190; Parcels 132, 133, and 134, recorded in Liber 13504 at folio 624; Parcel 349, recorded in Liber 6711 and folio 941; and Part of Lot 1, recorded in Liber 134426 at folio 1. The property is within the Industrial, Employment (IE) and Military Installation Overlay (MIO) Zones and was previously located within the Light Industrial (I-1) and Military Installation Overlay (M-I-O) Zones. This application is being reviewed in accordance with the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1900 of the Subdivision Regulations. In accordance with Section 24-1904(c) of the Subdivision regulations, this preliminary plan of subdivision (PPS) is supported by and subject to Certificate of Adequacy ADQ-2022-002. The site is subject to the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (sector plan), Subtitles 24 and 27 of the prior Prince George's County Code, and other applicable plans, as outlined herein. This PPS includes five parcels for development of 387,556 square feet of industrial use. The site currently consists of vacant wooded area.

\*Denotes Correction

Underlining indicates new language

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

Section 24-122(a) of the Subdivision Regulations requires that 10-foot-wide public utility easements (PUEs) be provided along both sides of all public rights-of-way. Master-planned roadway Presidential Parkway (MC-634) is aligned through the site and proposed for dedication. The subject site also fronts along existing public roadways. The applicant requested approval of a variation from the PUE requirements and proposes that dry utilities will be placed within the right-of-way along a portion of Presidential Parkway. This request is discussed further in this resolution.

The applicant also filed a variance request to Section 25-122(b)(1)(G) of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance, in order to allow removal of 15 specimen trees. This request is discussed further in the Environmental finding of this resolution.

3. **Setting**—The property is located on Tax Map 82 in Grids B3, B4, C3, C4, and Tax Map 90 in Grid C1. The property is within Planning Area 78. The properties abutting the site to the north consist of single-family attached dwellings and reserved open space within the Rural Residential (RR) Zone under the current and prior zoning. The properties abutting the site to the east consist of single-family attached and single-family detached dwellings within the Residential, Multifamily-20 Zone (formerly the Multifamily Medium Density Residential Zone), and the RR Zone under the current and prior zoning. The adjacent properties to the south beyond Westphalia Road consist of industrial development within the IE Zone (formerly the I-1 Zone). The properties abutting the site to the west consist of single-family detached dwellings, industrial development, and vacant land within the IE Zone. The adjacent properties to the west beyond the Capital Beltway consist of office development, transportation and utilities development, and industrial development within the IE Zone.
4. **Development Data Summary**—The following information relates to the subject PPS and the proposed development.

	EXISTING	APPROVED
Zone	IE/M-I-O	IE/M-I-O
Use(s)	Vacant, Residential, Institutional	Industrial
Acreage	*[48.3] 53.21	*[48.3] 53.21
Lots	1	0
Parcels	5	3
Outparcel	0	2
Dwelling Units	0	0
Gross Floor Area	0	387,556 sq. ft.

\*Denotes Correction

Underlining indicates new language

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

There are three parcels for development (Parcels 1–3) and two nondevelopment parcels (Parcels 4 and 5) to be conveyed to a business owners association, as listed on the coversheet of the PPS. Parcels 4 and 5 are configured as narrow strips of land on either side of the Presidential Parkway right-of-way within the site, which are not suitable for development, but will accommodate potential future landscaping and/or fencing. The PPS shall be revised to label Parcels 4 and 5 as Parcels A and B, to distinguish the nomenclature from that of the development parcels, or these land areas shall be consolidated into the abutting development parcels which will eliminate the need for a business owners association.

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on June 10, 2022. The requested variation from Section 24-122(a) was received on June 15, 2022, and heard at the SDRC meeting on June 24, 2022, as required by Section 24-113(b) of the prior Subdivision Regulations.

5. **Previous Approvals**—The site is subject to Zoning Map Amendment A-9706-C, which was approved by the Prince George’s County District Council in 1989 to reclassify the property to the I-1 Zone (Zoning Ordinance No. 35-1989), with 20 conditions. An amendment to the conditions was approved by the District Council on October 26, 2021, via A-9706-C-01 (Zoning Ordinance No. 7-2021). Twelve conditions remain applicable to the property and the applicant has addressed each condition of A-9706-C-01 in their statement of justification (SOJ) dated May 14, 2022, incorporated by reference herein. Conditions regarding landscaping, buildings, and other development features of the site will be evaluated at the time of detailed site plan (DSP) review, as the PPS does not include the approval of site building details. The following conditions in **BOLD** are relevant to the review of the PPS and the responses are in plain text:

1. **Vehicular access to the subject property shall be prohibited from Oak Street, Poplar Drive, Willow Avenue, and Flowers Road. Notwithstanding, Flowers Road may be used as a temporary construction access during the development of the subject property.**

The PPS does not include any permanent vehicular access to the above-listed roadways. Access is from Presidential Parkway, which is to be dedicated through the subject site, as reflected on the PPS.

4. **With the exception of the ultimate improvements at the intersection of Westphalia Road/MD 4 (to be funded/provided pursuant to CR-66-2010), all required off-site road improvements shall be permitted and bonded prior to issuance of any building permit.**

The applicant will be required to comply with the provisions of Prince George’s County Council Resolution CR-66-210, in accordance with the ADQ approved for this project. There are no other off-site road improvements required to meet transportation adequacy for this site, as contained in ADQ-2022-002.

6. **Development for buildings and parking areas shall be limited to thirty-seven (37) net acres of the subject parcel. The remaining ten (10) acres shall not be disturbed or developed beyond utility rights of ways and other engineering requirements, as necessary, to support the development.**

Although the review of building and parking areas will be applicable at the time of DSP, the Type 1 tree conservation plan submitted with the PPS demonstrates conformance with this requirement at this stage. The net developable acreage outside the primary management area (PMA) is only 35.84 acres, and over 10 acres of the subject property is provided for woodland conservation.

8. **No development shall take place unless and until a preliminary plan of subdivision is approved by the Planning Board of the Maryland-National Capital Park and Planning Commission.**

The subject PPS application is filed in conformance with this condition.

9. **The developer shall notify by mail all parties of records of any further hearings on the Preliminary Plat, Record Plat or Site Plan.**

The applicant provided informational mailing notices and acceptance mailing notices for the subject PPS application to adjoining property owners, registered associations, municipalities within a one-mile radius of the property, and all previous parties of record on May 18, 2021, and May 23, 2022, respectively.

12. **Prior to acceptance of a preliminary plan of subdivision, a noise analysis shall be provided and shall demonstrate that outdoor noise levels generated by the proposed industrial use(s) will meet all applicable County noise regulations. The noise analysis shall also provide details for outdoor noise levels generated by the full length of future MC-634/Presidential Parkway on the proposed industrial use(s) to be developed on the subject property. All noise mitigation structures required for the proposed industrial use(s) to meet applicable County noise regulations shall be reflected on a detailed site plan.**

A noise analysis prepared by Phoenix Noise & Vibration, on December 10, 2021, was submitted with the instant PPS. The analysis demonstrates that noise generated, based on the conceptual development of the site, will be within the daytime and nighttime noise level limits required by the County, with mitigation. Sound attenuation fencing locations are provided within the study, at the necessary locations and heights, to ensure noise compliance. The location and details for the fencing will be required to be shown on the DSP, in accordance with this condition, and should be in context to the final site and building design. Any changes to the site layout may require an updated study be provided at the time of DSP.



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

**Plan 2035**

This application is located within the Established Communities growth policy area. The vision for the Established Communities is to create the most appropriate context-sensitive infill and low- to medium-density development (Plan 2035, page 20).

**Sector Plan Conformance**

The sector plan recommends industrial land uses on the subject property.

Policy 6—Industrial Areas (page 32) contains the following strategies:

- **Locate new industrial development primarily near the Capital Beltway and MD 4 where the Andrews Air Force Base flight paths result in noise ratings of 70 dBA or higher (see Map 4).**
- **Require interior acoustical buffering for all buildings in high noise impact areas related to flight operations at Andrews Air Force Base.**
- **Separate industrial areas from residential areas by use of buffering designed and placed to minimize sight, sound, and dust.**
- **Provide screening for outdoor storage areas and truck parking or loading areas for industrial properties bordering roads.**
- **Design access roads to industrial areas to border or pass around, not through, residential neighborhoods.**
- **Provide access to industrial sites by means of pedestrian trails and public transit, as well as public roads.”**

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application conforms to the sector plan's recommended land use. The recommendations above regarding buffering, screening, and access have been addressed as part of the conditions of approval of A-9706-C-01, discussed previously, and will be further evaluated at the time of DSP. The site will be provided vehicular and pedestrian access, via master-planned road Presidential Parkway. Recommendations related to proximity to Joint Base Andrews were addressed by the subject property's reclassification into the M-I-O Zone in 2016, as discussed further below.

**Aviation/Military Installation Overlay**

The 2016 *Approved Military Installation Overlay Zoning Map Amendment* classified the subject property in the M-I-O Zone (as an overlay to the site's I-1 zoning) for height, noise, and safety. This site is predominantly located within Height Surface B of the M-I-O Zone. Structures on the

subject property should not exceed 124.74 feet in height, in accordance with Section 27-548.54 of the Zoning Ordinance.

The site is located entirely within the high noise contour and a significant portion of the subject property is located within the accident potential zone. Proposed buildings and uses will need to comply with any County noise requirements and regulations limiting specific materials used on-site, in accordance with Sections 27-548.55 and 27-548.56.

7. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan, or an indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. An unapproved SWM Concept Plan (18078-2021-00) was submitted with this PPS, and dually submitted to the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) for review and approval. The SWM concept plan shows the use of micro-bioretenment and underground storage facilities for the management of stormwater on-site.

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

8. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, the subject subdivision is exempt from mandatory dedication of parkland requirements because it consists of nonresidential development.
9. **Transportation (pedestrian, bicycle and vehicular)**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the sector plan, to provide the appropriate transportation facilities.

#### **Master Plan Right of Way**

The subject property has frontage on Westphalia Road (A-37), along the southern bounds of the site. Per the MPOT and the sector plan, the portion of Westphalia Road that fronts the subject property is designated as an arterial roadway with ultimate right-of-way of 120-140 feet. The latest PPS submission displays the portion of Westphalia Road along the property's frontage as an 80-foot right-of-way, which is not consistent with the MPOT recommendation. As a condition of approval, the applicant shall revise the PPS to adequately show the MPOT-recommended right-of-way for Westphalia Road and provide the appropriate dedication of the right-of-way within the limits of the site to facilitate the recommended ultimate right-of-way.

The site is also subject to the MPOT recommended right-of-way, MC-634, which is shown on the PPS as traversing the site along the western edge of the property. Per the MPOT, MC-634 is designated as a major collector roadway with a 100-foot right-of-way that originates from Westphalia Road. The latest PPS submission shows the ultimate right-of-way dedication of MC-634 within the limits of the property, and also shows that access to the site is proposed via a full access driveway at the future Presidential Parkway and Westphalia Road intersection. The applicant proposes to construct an interim configuration of MC-634 consisting of a

2,800-linear-foot extension from its intersection with Westphalia Road, as shown on the PPS. In correspondence from DPIE, dated May 3, 2022, DPIE waived the construction of the portion of MC-634 from the proposed interim extension to the northern property boundary, and will require the applicant to provide a fee-in-lieu of the future construction of Presidential Parkway to its ultimate configuration. DPIE indicates that the waiver for the full construction of the roadway is due to the presence of steep slopes and potential impacts to sensitive environmental features. In addition, DPIE indicates that the applicant shall dedicate the full 100 feet of right-of-way for MC-634 and requests that the fee-in-lieu is paid prior to issuance of the first site development grading permit.

The applicant's proposal to facilitate the master plan's recommended right-of-way for MC-634, as well as the correspondence provided by DPIE, was reviewed and the applicant's proposal is found to be acceptable. The proposed configuration of the interim roadway, which includes a consolidated access driveway to the future warehouse development located along MC-634, is sufficient and will not impede future operations of the roadway when it is fully constructed to its ultimate condition. Furthermore, the full construction of the roadway is not needed to ensure transportation adequacy for the proposed development. As a condition of approval, the applicant shall provide full dedication of all master plan rights-of-way, provide the construction of the MC-634 extension from its intersection with Westphalia Road, as provided on the PPS, and provide the remaining portion of MC-634, in accordance with the fee schedule and timeline determined by the operating agency.

#### **Master Plan Pedestrian and Bike Facilities**

Two recommended master plan bicycle and pedestrian facilities are located on the subject property and its frontage, specifically a planned side path along Presidential Parkway and a planned side path along Westphalia Road.

The Complete Streets element of the MPOT reinforces the need for multimodal transportation and includes the following policies regarding the accommodation of pedestrians and bicyclists (MPOT, p. 9–10):

**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.**

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

**Policy 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.**

The MPOT-recommended pedestrian and bicycle facilities will be further evaluated with future DSP applications. However, as a condition of approval, the master plan-recommended side paths along Presidential Parkway and Westphalia Road shall be provided and shown on subsequent DSP applications. The applicant shall also provide an interconnected network of on-site pedestrian facilities that connect pedestrian travel between all buildings. The exact details of these pedestrian facilities shall be provided and evaluated as part of future DSP applications.

Based on the preceding findings, the transportation facilities will be in conformance with the MPOT, the sector plan, and the Subdivision Regulations.

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

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

The standard requirement for PUEs is 10-feet-wide along both sides of all public rights-of-way. The subject site has frontage along the existing public rights-of-way of the Capital Beltway, Westphalia Road, Willow Avenue, Oak Street, and the proposed public right-of-way of Presidential Parkway. However, PUEs are to be provided along only a portion of Presidential Parkway and Westphalia Road. It is also noted that the private right-of-way of Flowers Road also abuts the subject site. Section 24-128(b)(12) addresses PUE requirements for private rights-of-way, where those rights of way have been provided in accordance with Section 24-128. The private right-of-way of Flowers Road has never been the subject of a PPS and therefore not established in accordance with Section 24-128, therefore, no PUE along this private right-of-way is required.

The applicant requested a variation from the standard PUE requirement along public rights-of-way, in accordance with Section 24-113, which sets forth following required findings for approval of a variation (in **BOLD**), followed by review comments:

#### **Section 24-113 Variations**

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

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

Ten-foot-wide easements for public utilities are required along both sides of all public rights-of-way to ensure that utilities will be able to serve the subject site and surrounding development. However, the applicant does not propose to provide the easements along the public rights-of-way fronting the subject site. The subject property abuts the Capital Beltway (northwest side of the property), Willow Street, and Oak Street (southeast side of the property), and Presidential Parkway (to be dedicated within the boundaries of the property).

The public right-of-way for the Capital Beltway is not proposed for vehicular or dry utility access to the site and the subject includes an existing Washington Suburban Sanitary Commission easement along this roadway. Providing additional utility easements along this roadway would further interfere with buffering and woodland conservation along this portion of the site.

Willow Street and Oak Street both stub at the subject property's boundary and serve abutting residential development. These roadways are not proposed to continue into the subject site and must be buffered from the industrial development, in accordance with A-9706-C-01. Requiring the PUEs in these locations would interfere with required buffering. It is noted that Willow Street also stubs the subject property at the location of Presidential Parkway, which has an overlapping PUE requirement for which a variation is sought by the applicant. Therefore, a variation is not also necessary for Willow Street.

The existing utilities located within or along Westphalia Road are proposed be extended to serve the subject site within the pipe stem of the site, which connects to Westphalia Road. The vast majority of the site's pipe stem is to be dedicated as Presidential Parkway and there is not additional room to create a PUE outside of the right-of-way. The variation from the PUE requirements is sought along Presidential Parkway along the pipe stem of the site only and a PUE will be provided along this right-of-way, on both sides, for the remainder of the right-of-way.

Omission of the PUE along the Capital Beltway (northwest side of the property), Oak Street, and part of Presidential Parkway will have no impact on the utilities already provided and available for the surrounding development. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property.

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

The conditions on which the variation is based are unique to the subject site and generally not applicable to other properties due to several factors including, but not limited to, existing environmental constraints and shape of the site. Significant portions of the property include PMA that bisects the site and impacts all aspects of development including building placement and locations of roads and driveways. Due the site's long pipe stem, which is to be dedicated as Presidential Parkway, the property is 100 feet wide at its narrowest and approximately 1,450 feet at its widest, an approximate difference of 1,350 feet in width. These conditions present specific and unique constraints for this project that require the use of a compact development scheme, careful roadway alignment, and nonstandard PUE design to accommodate minimizing impacts to sensitive environmental areas and adjoining properties.

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

No known applicable law, ordinance, or regulation will be violated by this request. The approval of a variation, in accordance with Section 24-113, is unique to the Subdivision Regulations and under the sole authority of the Prince George's County Planning Board. This PPS and variation request for the location of PUEs was referred to the public utility companies and road operating agency, none of which have opposed this request. DPIE provided a response that PUEs should be provided along Presidential Parkway where space is available within the site, which is consistent with the applicant's proposal. Further approval of utilities locations will be required by the affected agencies during their review of applicable permits and site development.

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

The development proposed in the PPS represents the development of a compact and sustainable light-industrial use pattern that limits impacts to sensitive environmental areas within the site. A particular hardship to the owner would result with the implementation of standard PUEs being located along the public rights-of-way described herein and would impact the ability to reasonably develop the site. For example, if standard PUEs were required along all of the public rights-of-way, the applicant would be prevented from claiming woodland conservation credit along portions of the Capital Beltway, would be prevented from planting the required 40-foot-wide planter buffer along Oak Street, and would be unable to provide full 100-foot-wide dedication of Presidential Parkway, due to the narrow width of existing pipe stem of the property (Parcel 84). These factors constrain the site and make it a hardship to provide the 10-foot-wide PUE along the public rights-of-way.

- (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.**

The subject property is not within any of the zones specified by this criterion; therefore, this provision does not apply.

Based on the proceeding findings, the Planning Board **approves** the variation from Section 24-122(a) for provision of PUEs along public rights-of-way abutting and through the site, as described above.

11. **Public Facilities**—This PPS was reviewed for conformance to the sector plan, in accordance with Section 24-121(a)(5). The infrastructure element of the sector plan contains a Public Facilities section, which lays out the vision, goal, and specific strategies for implementation. The overall vision for the public facilities section of the sector plan is that “Westphalia will be a pedestrian-friendly community with needed public facilities and infrastructure,” with the goal of providing “needed public facilities and infrastructure to create a quality community and support the planned land use program consistent with county standards.”

The PPS is consistent with the vision and goal of the sector plan in that it is supported by approved ADQ-2022-002, which ensures adequate public facilities to support the proposed land use. The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities, none of which affect the subject property.

#### **Water and Sewer**

The 2018 *Water and Sewer Plan* designates all parcels except Parcel 84 in Water and Sewer Category 4, and Parcel 84 in Water Category 3 and Sewer Category 4, inside the Sewer Envelope, in the Growth Tier, and within Tier 1 under the Sustainable Growth Act, approved for development on the public sewer system.

Section 24-122.01(b)(1) states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.” The Water and Sewer Plan placed this property in the Water and Sewer Category 4–Community System adequate for Development Planning. The Water and Sewer Plan states:

**Redesignation from Category 4 to Category 3 may be requested through the Administrative Amendment process. In addition to the final plat requirements, the redesignation will require that (1) the development proposal is consistent with the**

**County's development policies and criteria (Section 2.1.4) and the State Growth Act; (2) adequate capacity exists; and (3) the projects for necessary system improvements are included in the approved WSSC Capital Improvement Program (CIP). Inconsistencies or inadequacies with the above criteria shall be eliminated prior to redesignation to Category 3.**

Category 3 must be obtained via the Administrative Amendment process before approval of a final plat, which will be required by DPIE, prior to their signature on the final plat.

12. **Historic**—The sector plan contains goals and policies related to historic preservation (pages 66-67); however, these are not specific to the subject site or applicable to the proposed development. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. The subject property does not contain and is not adjacent to any designated Prince George's County historic sites or resources.
13. **Environmental**—PPS 4-21013 for Vista 95 Business Park, and the Type 1 Tree Conservation Plan (TCP1-011-2022), was accepted for review on May 25, 2022. Comments were provided in a Subdivision Development Review Committee (SDRC) meeting on June 10, 2022. Revised information was received on June 23, 2022. An alternative layout exhibit was submitted July 1, 2022. The following applications and associated plans have been reviewed for the subject site:

Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
A-9706-C	N/A	District Council	Approved	7/13/1989	ZO NO. 35-1989
4-92127	TCP1-089-92	Planning Board	Approved	12/9/1993	93-115A
N/A	TCP2-039-93	Planning Director	Approved	4/21/1993	N/A
N/A	TCP2- 135-95	Planning Director	Approved	11/17/1995	N/A
A-9706-01 Amendment	N/A	District Council	Pending	Pending	Pending
NRI-143-2021	N/A	Staff	Approved	10-06-2021	N/A
4-21013	TCP1-011-2022	Planning Board	Approved	07-28-2022	2022-90

#### **Grandfathering**

The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 because the application is for a new PPS.

#### **Site Description**

A review of available information, and as shown on the approved natural resources inventory (NRI), indicates that streams and steep slopes are found to occur on the property. The site does not contain any wetlands of special state concern, as mapped by the Maryland Department of Natural Resources (DNR), but does contain wetlands along the western edge of the site and in association with the on-site stream systems. The County's Department of the Environment



watershed map shows the entire site is within Western Branch of the Patuxent River basin. The site features various steep slopes, with some slopes steeper than 15 percent, and generally drains to the north. The site is not identified by DNR as within a stronghold watershed area. The on-site stream is not categorized as a Tier II waters, and the site is not within a Tier II catchment area. According to available information from the DNR Natural Heritage Program, rare, threatened, and endangered species are not found to occur on-site. The property does not abut any historic or scenic roads. The site is located within the Established Communities of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035. It is mapped as regulated and evaluation areas within the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan).

## CONFORMANCE WITH APPLICABLE PLANS

### Conditions of A-9706-01

No conditions of A-9706-C-01 are environmental in nature.

### Sector Plan

The sector plan contains goals, policies, and strategies. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the sector plan, and the plain text provides comments on plan conformance.

#### **Policy 1. Protect, preserve, and enhance the identified green infrastructure network within the Westphalia sector planning area.**

#### **Strategies:**

- A. Use the sector plan designated green infrastructure network to identify opportunities for environmental preservation and restoration during the review of land development proposals.**

According to the approved Green Infrastructure Plan, the site contains regulated and evaluation areas. The plan shows 7.33 acres of existing woodland to be preserved and 3.38 acres of reforestation to further enhance the regulated environmental features (REF).

- B. Preserve 480 or more acres of primary management area (PMA) as open space within the developing areas.**

Five impacts were proposed to the REF with this PPS. With the exception of the future impacts for the master-planned road, Presidential Parkway, preservation of the REF is provided along the on-site stream system to retain the natural buffer for the on-site stream. The preservation of the PMA provides protection for the stream system and associated wetlands. This area helps maintain a green corridor

along the sensitive edge. This site contains a master-planned roadway identified as MC-634, an extension of Presidential Parkway. The TCP1 shows land to be dedicated for the development of the master-planned roadway MC-634. Further impacts to the PMA are anticipated with the eventual development of Presidential Parkway through the property; however, at this time, DPIE is only requiring the development of this road to the extent shown on the PPS. The applicant provided an exhibit approximating the impacts with the full development of the road and evaluated alternative entrances to the two building sites, as discussed further in the Environmental Review section of this finding. Impacts to the PMA are to be minimized to the extent practicable.

**C. Place preserved sensitive environmental features within the park and open space networks to the fullest extent possible.**

The current application only proposes development on the most developable upland portions of the site. The majority of the sensitive environmental areas are currently proposed to remain undisturbed with green space along the on-site stream network. These features are to be placed within a woodland conservation easement and supported by afforestation to further encourage protection of the network.

**D. Protect primary corridors (Cabin Branch) during the review of land development proposals to ensure the highest level of preservation and restoration possible. Protect secondary corridors (Back Branch, Turkey Branch, and the PEPCO right-of-way) to restore and enhance environmental features, habitat, and important connections.**

The site is within the Southwest Branch of the Patuxent River watershed. Preservation and restoration of the on-site stream system has been evaluated under the Environmental Review section of this finding.

**E. Limit overall impacts to the primary management area to those necessary for infrastructure improvements, such as road crossings and utility installations.**

**F. Evaluate and coordinate development within the vicinity of primary and secondary corridors to reduce the number and location of primary management area impacts.**

**G. Develop flexible design techniques to maximize preservation of environmentally sensitive areas.**

With regard to Policy 1, Strategies E through G, five impacts to the PMA were proposed with this application and are discussed in the Environmental Review section of this finding.

**Policy 2. Restore and enhance water quality of receiving streams that have been degraded and preserve water quality in areas not degraded.**

**Strategies:**

- A. Remove agricultural uses along streams and establish wooded stream buffers where they do not currently exist.**

The site does not contain agricultural uses.

- B. Require stream corridor assessments using Maryland Department of Natural Resources protocols and include them with the submission of a natural resource inventory as development is proposed for each site. Add stream corridor assessment data to the countywide catalog of mitigation sites.**

The on-site stream which exists is being preserved to the extent practicable within the woodland conservation area. Two impacts to the stream system were proposed with this application and are discussed in the Environmental Review section of this finding.

- C. Coordinate the road network between parcels to limit the need for stream crossings and other environmental impacts. Utilize existing farm crossings where possible.**

No farm crossings exist on this site. The current application proposes internal connections between the two warehouse buildings on-site, with the main access connection being the master-planned right of way identified as Presidential Parkway. Five impacts to the PMA are currently included with this PPS, with the remainder to be undisturbed and be placed into a woodland conservation easement. One stream crossing is included with this application for internal connectivity.

- D. Encourage shared public/private stormwater facilities as site amenities.**

- E. Ensure the use of low-impact development (LID) techniques to the fullest extent possible during the development review process with a focus on the core areas for use with bioretention and underground facilities.**

To address Strategies D and E, SWM is discussed in detail in the Environmental Review section of this finding.

**Policy 3. Reduce overall energy consumption and implement more environmentally sensitive building techniques.**

**Strategies:**

- A. Encourage the use of green building techniques that reduce energy consumption. New building designs should strive to incorporate the latest environmental technologies in project buildings and site design. As redevelopment occurs, the existing buildings should be reused and redesigned to incorporate energy and building material efficiencies.**

The use of green building and energy conservation techniques is encouraged. The building and site design will be evaluated at DSP review.

- B. Encourage the use of alternative energy sources such as solar, wind and hydrogen power. Provide public examples of uses of alternative energy sources.**

The use of alternative energy sources is encouraged.

**Policy 4. Plan land uses appropriately to minimize the effects of noise from Andrews Air Force Base and existing and proposed roads of arterial classification and higher.**

**Strategies:**

- A. Limit the impacts of aircraft noise on future residential uses through the judicious placement of residential uses.**
- B. Restrict uses within the noise impact zones of Andrews Air Force Base to industrial and office use.**
- C. Evaluate development proposals using Phase I noise studies and noise models.**
- D. Provide for adequate setbacks and/or noise mitigation measures for projects located adjacent to existing and proposed noise generators and roadways of arterial classification or greater.**
- E. Provide for the use of appropriate attenuation measures when noise issues are identified.**

Strategies A and B are specific to noise associated with Joint Base Andrews. Noise impacts will be addressed with the DSP, if applicable.

**Green Infrastructure Plan**

The Green Infrastructure Plan was approved with the adoption of the *Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017) on March 7, 2017. According to the

approved Plan, the site is not in a regulated or evaluation area. According to the approved Green Infrastructure Plan, the site contains regulated and evaluation areas. This area is comprised of a mostly wooded area with a portion of on-site stream system at the northern property edge that flows off-site to the north.

The following policies and strategies 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.**

**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.**

The property is in the Southwest Branch of the Patuxent River basin, but is not within a Tier II catchment area. The site contains a stream system and associated wetlands, part of which are within an evaluation area and the rest within the regulated area of the network. The current plan proposes to preserve the majority of the stream system within an area of woodland conservation.

**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 PPS indicates that the regulated system on-site will be preserved, to the extent practicable, with five impacts to the PMA. Four impacts are approved at this time. The fifth impact is not approved with the PPS and shall be reevaluated with the DSP. The design adequately preserves a connected wooded stream system. A TCP1 is required with this PPS, which shows that 10.71 acres of the required woodland conservation requirement will be met on-site, as 7.33 acres of preservation and 3.38-acre of afforestation.

**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.**

- a. Provide wildlife and water-based fauna with safe passage under or across roads, sidewalks, and trails as appropriate. Consider the use of arched or bottomless culverts or bridges when existing structures are replaced, or new roads are constructed.**

No fragmentation of REF is included with this PPS; however, details on the culverts for the proposed internal road crossing the PMA have not been provided at this level of review. The environmentally sensitive areas on-site are being preserved to the extent practicable.

- 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.**

No trail systems or proposed master-planned trails exist or are proposed with this PPS.

**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.**

On-site woodland conservation shall be placed in Woodland and Wildlife Habitat Conservation Easements, prior to the certification 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.**

The proposal has not received SWM concept approval. The submitted unapproved draft Concept Plan (18078-2021-00) shows use of micro-bioretenion and underground storage facilities to meet the current requirements of environmental site design to the maximum extent practicable. No SWM features aside from outfalls are being placed within the PMA. Compensatory floodplain storage by design must be within the PMA and is required on-site.

**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 proposes to provide 20 percent of the gross tract area in woodland conservation. Retention of existing woodlands and planting of native species on-site is required by both the 2018 *Environmental Technical Manual* (ETM) and the 2010 *Prince George's County Landscape Manual*. Tree canopy coverage requirements will be evaluated at the time of DSP review.

#### **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.**

Woodland conservation is designed to minimize fragmentation and reinforce new forest edges. This site does not contain potential forest interior dwelling species. Green space is encouraged in compact developments to serve multiple ecoservices.

## **ENVIRONMENTAL REVIEW**

### **Natural Resources Inventory**

A signed Natural Resources Inventory (NRI-143-2021) was submitted with the application. The site contains streams, wetlands, and associated buffers that comprise the PMA. The NRI indicates the presence of five forest stands, labeled as Stand 1 through Stand 5, with 25 specimen trees identified on-site. The TCP1 and the PPS show all required information correctly, in conformance with the NRI; however, the site statistics shown on the TCP1 do not conform with the NRI. A secondary survey was conducted with the TCP1 and the NRI shall be revised for conformance, prior to signature approval of the TCP1.

### **Woodland Conservation**

This project is subject to the 2010 Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the application is for a new PPS, and subject to the ETM. TCP1-011-2022 was



submitted with the subject application and requires minor revisions to be found in conformance with the WCO.

The woodland conservation threshold (WCT) for this 53.21-acre property is 15 percent of the net tract area, or 6.20 acres. The total woodland conservation requirement based on the amount of clearing proposed is 10.66 acres. The woodland conservation requirement is to be satisfied with 10.71 acres of on-site woodland conservation, consisting of 7.33 acres of woodland preservation and 3.38 acres of afforestation. All woodland conservation requirements are being met on-site.

Technical revisions to the TCP1 are required and are included as conditions of this approval.

### **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 Technical Manual.” Conformance with this Code requirement, however, is not inflexible.

The authorizing legislation of Prince George’s County’s Woodland and Wildlife Habitat Conservation Ordinance (WCO) is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in the County’s WCO are set forth in Section 25-119(d), and subsection (d) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

A Subtitle 25 variance application and an SOJ, in support of a variance, dated October 25, 2021, and revised on May 17, 2022, was submitted with this PPS. The SOJ requested the removal of 15 of the existing 25 specimen trees located on-site. Specifically, Specimen Trees ST-54 through ST-58, and ST-801, ST-803 through ST-807, ST-809, ST-811, ST-812, and ST-814 are shown for removal. The TCP1 and specimen tree removal exhibit show the location of the trees proposed for removal. The specimen trees proposed for removal are in good to very poor condition, and are located on-site, some within the PMA, and the majority within or along the edge of the upland development areas.

### **SPECIMEN TREE SCHEDULE SUMMARY FOR 15 TREES PROPOSED FOR REMOVAL ON TCP1-011-2022**

ST #	COMMON NAME	DBH (in inches)	CONDITION	APPLICANT’S PROPOSED DISPOSITION
54	Chestnut oak	32	Good	Remove
55	American beech	31	Good	Remove
56	Tulip poplar	32	Very Poor	Remove

ST #	COMMON NAME	DBH (in inches)	CONDITION	APPLICANT'S PROPOSED DISPOSITION
57	Red maple	33	Poor	Remove
58	Chestnut oak	39	Fair	Remove
801	Tulip poplar	38	Poor	Remove
803	Tulip poplar	44	Poor	Remove
804	Southern red oak	34	Fair	Remove
805	Tulip poplar	31	Poor	Remove
806	Tulip poplar	47	Poor	Remove
807	Tulip poplar	37	Poor	Remove
809	Tulip poplar	48	Poor	Remove
811	White oak	31	Good	Remove
812	Tulip poplar	32	Poor	Remove
814	Tulip poplar	30	Good	Remove

The removal of the 15 specimen trees requested by the applicant is approved, based on the findings below. The specific trees approved for removal are ST-54 through ST-58, ST-801, ST-803 through ST-809, ST-811, ST-812, and ST-814.

Section 25-119(d)(1) contains six required findings (text in **BOLD** below) to be made before a variance from the WCO can be granted. An evaluation of this variance requested, with respect to the required findings, is provided below.

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

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the 15 specimen trees. Those special conditions relate to the specimen trees themselves, such as their size, condition, species, and on-site location.

The property is 53.21 acres, and the TCP1 shows approximately 17.36-acres of PMA comprised of streams, floodplain, wetlands, and associated buffers. This represents approximately 32.62 percent of the overall site area. The applicant is proposing to preserve the site's PMA to the fullest extent practicable and is proposing woodland conservation and afforestation to further protect the PMA. The majority of the specimen trees on-site are located within the PMA in the center of the site and are proposed to be preserved. The specimen trees proposed for removal are located along and within the upland areas of the site most suited for development and within the area proposed for site access. This site contains steep slopes, wetlands, streams, and floodplains, which restrict development potential. Due to the nature of how the PMA bisects the site, two developable

islands are formed with a singular access point off of Presidential Parkway. Of the 15 specimen trees proposed for removal, seven are Tulip poplars which have poor construction tolerances. Another of the specimen trees requested for removal, an American beech, also has poor construction tolerance. Although the rest of the trees requested for removal have a good to medium construction tolerance, the condition rating of those trees is two in good condition, two in fair condition, and one in poor condition. The condition provided for the Tulip poplars ranges from good to very poor; if these trees were required to be retained, stresses from development could lead to potential hazards.

This site utilizes the master-planned roadway Presidential Parkway as its primary access from Westphalia Road. The PPS shows Presidential Parkway terminating on-site in a cul-de-sac, with primary access to the second building on-site via a stream crossing. The remainder of Presidential Parkway has been dedicated as noted in the waiver from DPIE, dated May 3, 2022. As dedication of Presidential Parkway has occurred, the continuation of the road is expected to be constructed at a future date.

The proposed use, as industrial development, is a reasonable use for the industrial zoned site, and it cannot be accomplished elsewhere on the site without additional variances. Development cannot occur on the portions of the site containing REFs and PMA, which limit the site area available for development. Requiring the applicant to retain the 15 specimen trees on the site, by designing the development to avoid impacts to the critical root zones, would further limit the already constrained area of the site available for development, to the extent that it would cause the applicant an unwarranted hardship.

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

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

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

in the IE (prior I-1) Zone. The specimen trees requested for removal are located within the only developable parts of the site.

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

Not granting the variance would prevent the project from being developed in a functional and efficient manner. This is not a special privilege that would be denied other applicants. If other similar industrial developments were bisected by REF and specimen trees in similar conditions and locations, they would be given the same considerations during the review of the required variance application.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The applicant is not asking for the variance after-the-fact, where the trees have already been removed. The request to remove the trees is solely based on the trees' locations on the site, their species, and their condition.

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

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

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

Granting this variance request for the removal of 15 trees will not violate state water quality standards, nor cause measurable degradation in water quality. Requirements regarding SWM will be reviewed and approved by DPIE. Erosion and sediment control requirements are reviewed and approved by the Soil Conservation District. Both SWM and sediment and erosion control requirements are to be met in conformance with state and local laws to ensure that the quality of water leaving the site meets the state's standards. State standards are set to ensure that no degradation occurs.

The required findings of Section 25-119(d) have been adequately addressed for the removal of 15 specimen trees, identified as ST-54 through ST-58, ST-801, ST-803 through ST-807, ST-809, ST-811, ST-812, and ST-814. The Planning Board approves the requested variance for the removal of 15 specimen trees for the construction of industrial development.

### **Regulated Environmental Features**

This site contains REF that are required to be preserved and/or restored to the fullest extent possible under Section 24-130(b)(5). The on-site REF includes streams, stream buffers, wetlands, wetland buffers, and steep slopes.

Section 24-130(b)(5) states: “Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.”

### **PMA Impacts**

Impacts to the REF 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 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 REF. SWM outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code.

Five impacts to the PMA were proposed with this PPS. An alternative PMA impact exhibit was submitted July 5, 2022, to quantify the PMA impacts necessary for a connection to proposed Building 2 from MC-634. Impacts to the PMA should be minimized to the extent practicable. Impacts are for master-planned rights-of-way, site access stream crossings, retaining wall offsets, and compensatory floodplain storage. A summary of each impact in detail follows.

#### **Impact 1**

This request includes 45,935 square feet of PMA impact for grading of an internal road connection and stream crossing, which connects the two developable portions of the site. This impact proposes grading within the floodplain buffer which requires compensatory floodplain storage.

In the revised material submitted in response to SDRC comments dated June 23, 2022, the applicant provided a waiver agreement with fee-in-lieu calculations from DPIE regarding the development of Presidential Parkway, a master plan major connector that extends through this property. The PPS shows the dedication of land for Presidential

Parkway which, along with the fee-in-lieu, indicates the intention to ultimately construct Presidential Parkway through the property, connecting it to a dedicated section to the north. This proposal shows access to the development from a section of Presidential Parkway that will be constructed with this application. The plan also shows an internal connection to the proposed easternmost building (Building 2) by crossing the PMA as Impact 1. This impact may be avoided if a direct connection from Presidential Parkway to Building 2 is viable, once the remainder of Presidential Parkway is built. However, based on an evaluation provided by the applicant on July 1, 2022, detailing the necessary impacts, the topographical challenges, and the logistical/circulation challenges of connecting access to Building 2 from a completed Presidential Parkway, the applicant has demonstrated that the impacts to the PMA for Impact 1 meets the standard set forth in Section 24-130(b)(5) and Section 2.0 of the ETM for “preserving and/or restoring the REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25”; therefore, this impact is approved.

### **Impact 2**

This request includes 2,233 square feet of PMA impacts for the partial development of the master-planned roadway Presidential Parkway. The TCP1 shows the road terminating in a cul-de-sac, with Impact 2 proposed for associated grading along the western side of the right-of-way. With the dedication of Presidential Parkway, and the presumption that this road will be installed through the property, the applicant has demonstrated that Impact 2 meets the standard set forth in Section 24-130(b)(5) and Section 2.0 of the ETM for “preserving and/or restoring the REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25”; therefore, this impact is approved.

### **Impact 3**

This request includes 33,859 square feet of PMA impacts for grading associated with proposed Building 1 and the cul-de-sac associated with Presidential Parkway. This impact includes grading within the floodplain buffer, which requires compensatory floodplain storage.

As with Impact 2, this impact is associated with the installation of Presidential Parkway. The PPS shows Presidential Parkway terminating in a cul-de-sac and reflects that land has already been dedicated for the development of Presidential Parkway. As shown, this terminus has the potential to become a dumping ground for refuse, which has potential to damage and contaminate the PMA. Presidential Parkway serves the entire parcel and is designed to ultimately connect D’arcy Road and Westphalia Road. Sections of Presidential Parkway to the north and south of this site are being developed. Presidential Parkway is not shown to be fully installed with this application and, therefore, the road length of Presidential Parkway shall be reduced to delay this PMA impact to the time of the continuation of Presidential Parkway through the property. The applicant has demonstrated that Impact 3 meets the standard set forth in Section 24-130(b)(5) and Section 2.0 of the ETM for “preserving and/or restoring the REF in a natural state to the

fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25,” with the elimination or reduction to the extent feasible, which shall be determined at the time of DSP.

#### **Impact 4**

This request includes 553 square feet of PMA impacts for a retaining wall offset and is in proximity to Impact 1. This retaining wall is proposed to further limit PMA impacts and further tighten the development envelope. The applicant has demonstrated that Impact 4 meets the standard set forth in Section 24-130(b)(5) and Section 2.0 of the ETM for “preserving and/or restoring the REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25”; therefore, this impact is approved.

#### **Impact 5**

This request includes 13,666 square feet of PMA impacts for the required compensatory floodplain storage due to the floodplain impacts associated with Impacts 1 and 3. This impact is subject to change as it is based upon association with the other impacts and is supported to a degree dependent upon the area of Impacts 1 and 3. The applicant has demonstrated that Impact 5 meets the standard set forth in Section 24-130(b)(5) and Section 2.0 of the ETM for “preserving and/or restoring the REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25,” with the reduction, as determined feasible in association with Impact 3.

Impacts 1, 2, and 4 are approved. Impact 3 is associated with MC-634 and is approved subject to conditions, with final impact design and approval to be determined at the time of DSP. Impact 5 is approved with the understanding that the area required for compensatory floodplain storage may be reduced with a reduction in Impact 3.

An alternative access and PMA impact exhibit was submitted by the applicant on July 1, 2022. The revised exhibit shows an alternative for site access and quantifies the potential impact to PMA required to establish an access for proposed Building 2 directly from Presidential Parkway to the north. While the overall area is similar to the proposed impact, the alternative is entirely within the floodplain. This in turn requires additional compensatory storage, which will account for the majority of additional PMA impacts. Also, the alternate exhibit shows there will still be PMA impacts associated with rear site access for proposed Building 1 and grading associated with proposed Building 2. Proposed PMA Impact 1 provides site access for Building 2 and minimizes impact to the floodplain. This exhibit does not visually include specimen trees; however, two specimen trees are noted within the proposed connection. Based upon the exhibit, each potential access point proposes the removal of two specimen trees and is associated with PMA impacts. The alternate exhibit retains the rear building access for proposed Building 1 and modifies the site access. No modifications to the buildings or parking areas are proposed in the alternative layout. Specimen Trees ST-801 and ST-803 are still proposed for removal in the alternate layout, requiring the cumulative removal of two additional specimen trees. The current proposal for specimen tree removal retains an additional two specimen trees compared to the

alternate access exhibit, which proposed the removal of ST-808 and ST-810 for direct connection to Presidential Parkway, in addition to the 15 specimen trees currently proposed for removal.

### **Soils**

According to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, soils present include Beltsville silt loam, Beltsville-Urban land complexes, Croom gravelly sandy loam, Croom-Marr complexes, Croom-Urban land complexes, Grosstown gravelly silt, Marr-Dodon complexes, Potobac-Issue complexes, Sassafras-Urban land complexes, Udorthents (Highway), and Udorthents (Urban land). Marlboro and Christiana clays are not found to occur on this property.

### **Erosion and Sediment Control**

The County requires the approval of an Erosion and Sediment Control Plan. The TCP1 must reflect the ultimate limits of disturbance, not only for installation of permanent site infrastructure, but also for the installation of all temporary infrastructure, including erosion and sediment control measures. A copy of the Erosion and Sediment Control Technical Plan must be submitted with the TCP2 so that the ultimate limits of disturbance for the project can be verified and shown on the TCP2.

14. **Urban Design**—Industrial use is permitted on this property; but subject to DSP review, in accordance with Zoning Map Amendment A-9706-01. Conformance with Zoning Ordinance regulations is required for the proposed development and will be reviewed at the time of DSP including, but not limited to, the following:

- Section 27-469 I-1 Zone;
- Section 27-473(b) Table of Uses for the I-1 Zone;
- Section 27-474 Regulations in the I-1 Zones;
- Part 10 C Military Installation Overlay Zone;
- Part 11 Off Street Parking and Loading, and
- Part 12 Signs, respectively.

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

The proposed development is subject to the 2010 *Prince George's County Landscape Manual*. Specifically, Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscape Requirements apply to this site. Consideration should be given to providing adequate screening from the surrounding residential properties. Conformance with the applicable landscaping requirements will be determined at the time of DSP review.

### **Conformance with the Tree Canopy Coverage Ordinance**

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area or disturbance and require a grading permit. Properties in all industrial zones are required to provide a minimum of 10 percent of the gross tract area, which



equals to approximately 5.32 acres for this property, to be covered by tree canopy. Compliance with this requirement will be evaluated at the time of DSP review.


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 Shapiro voting in favor of the motion at its regular meeting held on Thursday, July 28, 2022, in Upper Marlboro, Maryland.

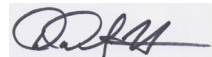
Adopted by the Prince George's County Planning Board this 8th day of September 2022, \*and was corrected administratively on September 29, 2022.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

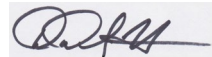
PAS:JJ:AH:jah

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department

CORRECTION APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department  
Date: September 29, 2022

\*Denotes Correction

Underlining indicates new language

[Brackets] and ~~strikethrough~~ indicate deleted language