



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
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PGCPB No. 2022-40

File No. 4-21038

R E S O L U T I O N

WHEREAS, Samuel T. Wood Marital Trust is the owner of an 18.09-acre parcel of land known as Parcels 119 and 136, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned Town Activity Center – Edge (TAC-E) and Military Installation Overlay (M-I-O); and

WHEREAS, on February 3, 2022, CBWPG II, LLC filed an application for approval of a Preliminary Plan of Subdivision for 88 lots, 16 parcels, and 1 outparcel for development of 88 townhouse units; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21038 for Wood Property 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 April 7, 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 24-1703(a) of the Subdivision Regulations, subdivision applications submitted and accepted as complete before April 1, 2022, but still pending final action as of that date, must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of submission and acceptance of the application; 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 April 7, 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 TCP1-011-2019-01, and APPROVED a Variance to Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-21038, including a Variation from Section 24-128(b)(7)(A), for 88 lots, 16 parcels, and 1 outparcel for development of 88 townhouse units, with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to add a general note stating that “A public use access easement will be provided over all private streets for cross access and circulation.”
2. Any nonresidential development shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.
3. Development of this site shall be in conformance with approved Stormwater Management Concept Plan 37486-2017-00 and any subsequent revisions.
4. Prior to approval of a final plat, in accordance with the approved preliminary plan of subdivision, the final plat shall include the granting of public utility easements along the private roadways.
5. Prior to approval of a final plat, a draft public use access easement over the private street rights-of-way in the subdivision shall be approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC) and be fully executed. The easement documents shall set forth the rights, responsibilities, and liabilities of the parties and shall include the rights of M-NCPPC. The limits of the easement shall cover the entirety of the private street right-of-way parcels and be reflected on the final plat. The easement shall be recorded in the Prince George’s County Land Records, and the Liber/folio of the easement shall be indicated on the final plat, prior to recordation.
6. Prior to approval of a building permit for the first dwelling unit, the private roads providing access to the subject subdivision within the adjoining Cabin Branch subdivision shall be complete and open to traffic.
7. Prior to approval of a final plat, the applicant shall demonstrate that a public use access easement has been granted over the private rights-of-way in the adjoining Cabin Branch subdivision, sufficient to allow the residents of the Wood Property subdivision access and circulation from Tina Lane, Sybil Lane, and Waller Tree Way to Presidential Parkway.
8. Prior to approval of a building permit for each dwelling unit, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permit stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA Ldn/DNL or less.
9. In accordance with Section 24-135(b) of the Prince George’s County Subdivision Regulations, the applicant and the applicant’s heirs, successors, and/or assignees, shall allocate appropriate and developable areas for, and provide, adequate on-site recreational facilities.
10. The on-site recreational facilities shall be reviewed by the Urban Design Section of the Development Review Division of the Prince George’s County Planning Department, for adequacy and proper siting, in accordance with the Parks and Recreation Facilities Guidelines, with the review of the detailed site plan (DSP). Triggers for construction shall be determined at the time of DSP.

11. Prior to submission of the final plat of subdivision for any residential lot, the applicant and the applicant's heirs, successors, and/or assignees shall submit three original executed private recreational facilities agreements (RFAs) to the Development Review Division (DRD) of the Prince George's County Planning Department, for construction of on-site recreational facilities, for approval. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records, and the Liber and folio of the RFA shall be noted on the final plat, prior to plat recordation.
12. Prior to approval of building permits for residential development, the applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for construction of recreational facilities.
13. The applicant shall make a monetary contribution into a park club, payable at the time of issuance of each building permit. The total value of the payment shall be \$3,500 per dwelling unit in 2006 dollars, as recommended by the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*. The Maryland-National Capital Park and Planning Commission shall adjust the contribution amount using the Consumer Price Index for inflation at the time of payment. Monetary contributions shall be used to construct, operate, and maintain the public recreational facilities in the central park and/or the other parks that will serve the Westphalia Sector Plan area.
14. Prior to approval of a final plat, the applicant shall enter into an agreement with the Prince George's County Department of Parks and Recreation to establish a payment mechanism for payment of fees into a park club account administered by the Maryland-National Capital Park and Planning Commission. If not previously determined, the agreement shall also establish a schedule of payments. The payment schedule shall include a formula for any needed adjustments to account for inflation. The agreement shall be recorded by the applicant in the Prince George's County Land Records, prior to final plat approval.
15. Total development within the subject property shall be limited to uses which generate no more than 62 AM peak-hour trips and 70 PM peak-hour vehicle 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.
16. Prior to 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:

MD 4 (Pennsylvania Avenue) Service Road

- Provide sidewalk and Americans with Disabilities Act ramps along the MD 4 Service Road, in the section from the northern driveway of Ferguson Waterworks to the southern driveway for the Mid-Atlantic Carpenter's Training Center. This section is north of the

MD 4 Service Road realignment. This requirement may be modified by the operating agency, with written correspondence.

17. Prior to issuance of each building permit, the applicant and the applicant's heirs, successors, and/or assignees shall, pursuant to the provisions of Prince George's County Council Resolution CR-66-2010 and the MD 4/Westphalia Road Public Facilities Financing and Implementation Program, pay to Prince George's County (or its designee) a fee of $\$437,796.54/88 = \$4,974.96$ (in 2010 dollars) per dwelling unit, pursuant to the Memorandum of Understanding (MOU) required by CR-66-2010. The MOU shall be recorded in the Prince George's County Land Records. These unit costs will be adjusted based on an inflation cost index factor to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement at the time of issuance of each permit.
18. Prior to approval of any final plat for this project, pursuant to Prince George's County Council Resolution CR-66-2010, the owner/developer, its heirs, successors, and/or assignees shall execute a Memorandum of Understanding (MOU) with the County that sets forth the terms and conditions for the payment of fees by the owner/developer, its heirs, successors, and/or assignees, pursuant to the Public Facilities Financing and Implementation Program. The MOU shall be executed and recorded among the Prince George's County Land Records and the Liber/folio noted on the final plat of subdivision.
19. The applicant shall provide a bicycle and pedestrian facilities plan that illustrates the location, limits, specifications and details of the pedestrian and bicycle adequacy improvements approved with Preliminary Plan of Subdivision 4-21038, consistent with Section 24-124.01(f) of the Prince George's County Subdivision Regulations, as part of the detailed site plan submission.
20. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities and show these facilities on a pedestrian and bikeway facilities plan, as part of the detailed site plan, prior to its acceptance, unless modified by the Department of Permitting, Inspections and Enforcement, with written correspondence:
 - a. The construction and upgrade to segments of sidewalks and Americans with Disabilities Act ramps along MD 4 (Pennsylvania Avenue) Service Road, in the section from the northern driveway of Ferguson Waterworks to the southern driveway for the Mid-Atlantic Carpenter's Training Center.
21. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities and show these facilities on a pedestrian and bikeway facilities plan and on the detailed site plan (DSP), as part of the DSP, prior to its acceptance:
 - a. An interconnected network of on-site pedestrian and on-road bicycle facilities that will be constructed to Prince George's County standards.

22. Prior to signature approval, the Type 1 tree conservation plan shall be revised to provide woodland preservation and afforestation symbology, details, and graphics for the permanent tree protection fence and associated signage.
23. Prior to signature approval of the Type 1 tree conservation plan, the woodland conservation worksheet shall be revised to indicate that the site is not subject to the 1991 Ordinance.
24. Prior to signature approval of the Type 1 tree conservation plan, the natural resources inventory plan shall be revised to indicate the primary management area present on the plan.
25. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-011-2019-01). The following note shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-011-2019-01 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.”

26. Prior to approval 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.”

27. 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 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.”

28. Prior to signature approval of the Type 1 tree conservation plan (TCP1), the specimen tree table on the TCP1 shall be revised to indicate that Specimen Tree 19 shall be preserved as indicated in the variance request dated February 25, 2022.

29. Prior to approval of a final plat, the applicant and the applicant's heir, successors, and/or assignees shall demonstrate that a homeowners association has been established for the subdivision. The draft covenants shall be submitted to the Subdivision Section 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.
30. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association land, as identified on the approved preliminary plan of subdivision. 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.
 - 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.

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 site is located at the northeast corner of the intersection of Presidential Parkway and MD 4 (Pennsylvania Avenue), west of an abutting subdivision known as Cabin Branch Village. The site consists of two legal parcels known as Parcels 119 and 136, which are recorded in Liber 43204 folio 589 of the Prince George’s County Land Records. The property has an address of 8580 and 8600 Pennsylvania Avenue. The 18.09-acre property is in the edge area of the Town Activity Center (TAC-E) Zone and is also subject to the Military Installation Overlay (M-I-O) Zone for height and noise. However, this preliminary plan of subdivision (PPS) was reviewed in accordance with the prior Prince George’s County Zoning Ordinance and Subdivision Regulations, as required by Section 24-1703(a) of the Subdivision Regulations. The site is subject to Mixed Use-Transportation (M-X-T) zoning under the prior Zoning Ordinance and the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (sector plan).

This PPS subdivides the property into 88 lots for development of 88 townhouse units. Sixteen parcels, which are to be conveyed to a homeowners association, are also included for open space and private roads and alleys that support the townhouse development. One outparcel is to be retained by the property owner for future commercial development. The subject site is currently in industrial use for vehicle storage, and the existing use will be removed to make way for new development. The property is not the subject of any previous record plats or PPS; therefore, a PPS is required in order to permit the division of land and the construction of multiple dwelling units.

The property is subject to a Conceptual Site Plan CSP-19007 (PGCPB Resolution No. 19-130), which approved 90 townhouse dwelling units, 15,000 square feet of gross floor area (GFA) for commercial development, and an 80,080-square-foot hotel for the entire 18.09-acre site. The CSP showed the hotel and a commercial building in the area of the site, now shown to be an outparcel. The creation of an outparcel will allow this area of the site to be subject to a future PPS for evaluation and approval of the commercial and hotel development. The subject PPS is for approval of the dwelling units only.

The applicant filed a variation request from Section 24-128(b)(7)(A) of the Prince George’s County Subdivision Regulations to allow development of lots in the M-X-T Zone, which are served by alleys but front on private streets and open space. This request applies to all 24 lots in Block D of the development. The request is discussed further in the Site Access finding of this resolution.

The applicant filed a variance request to Section 25-122(b)(1)(G) of the 2010 Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance (WCO), to allow removal of 10 specimen trees. This request is discussed further in the Environmental finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 90 in Grids C-2 and C-3 and is within Planning Area 78. The site is within the Town Center Fringe area of the sector plan. The site is located within the M-I-O Zone for height and noise, with most of the site within Noise Intensity Zone 60-74 dBA and the Inner Horizontal Surface (Right Runway) Area D. Some western portions of the site are within Noise Intensity Zone 75+ dBA and the Transitional Surface 7:1 (Right Runway) Area G.

The site is bound to the north by vacant land in the Industrial, Employment Zone; to the east by the Cabin Branch Village subdivision (currently under construction) in the Residential, Multifamily-20 Zone; to the south across Armstrong Lane, by the MD 4 and Presidential Parkway interchange; and to the west by the MD 4 (Pennsylvania Avenue) service road with MD 4 beyond.

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

	EXISTING	APPROVED
Zones	TAC-E/M-I-O	TAC-E/M-I-O (reviewed per M-X-T standards)
Use(s)	Industrial	Residential
Acreage	18.09	18.09
Parcels	2	16
Lots	0	88
Dwelling Units	0	88
Outparcels	0	1
Variance	No	Yes (Section 25-122(b)(1)(G))
Variation	No	Yes (Section 24-128(b)(7)(A))

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 February 18, 2022. Along with the PPS, the requested variation from Section 24-128(b)(7)(A) was accepted on February 3, 2022, and also heard at the SDRC meeting on February 18, 2022, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Previous Approvals**—The property was rezoned to the M-X-T Zone in February 2007 with the adoption of the sector plan.

The property is subject to CSP-19007 approved by the Prince George’s County Planning Board on November 21, 2019. The CSP approved 90 townhouse dwelling units, 15,000 square feet of GFA for commercial development, and an 80,080-square-foot hotel for the entire 18.09-acre site. The CSP was approved subject to two conditions, and the following condition is relevant to review of this PPS:

2. **At the time of acceptance of the preliminary plan of subdivision, demonstrate a continuation of the linear parks consistent with those approved in the adjacent Cabin Branch development.**

This condition has been met with the provision of Parcels M, P, and J. These parcels contain open space areas of consistent width with those provided in off-site parcels W, X, and T in the abutting Cabin Branch subdivision. The design of the features within the linear parks will be further evaluated at the time of DSP.

The subject property was rezoned TAC-E through the approved Countywide Sectional Map Amendment via Prince George's County Council Resolution CR-136-2021, effective April 1, 2022.

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 PPS is in the Established Communities area. The vision for the Established Communities area is context-sensitive infill and low- to medium-density development (page 20).

Sector Plan

The sector plan recommends a mix of commercial, office, employment, and institutional land uses on the subject property through the Town Center Fringe designation (page 27). The 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (SMA) reclassified the subject property into the M-X-T Zone from the I-1 Zone. Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, the Prince George's County District Council's reclassification of the property through the SMA to the M-X-T Zone, allows townhouses by-right in addition to the mix of nonresidential uses recommended by the sector plan.

Military Installation Overlay Zone

This PPS is located within the M-I-O Zone. Pursuant to Section 27-548.54 of the Zoning Ordinance, the development must meet the maximum height requirements for Surface Area D (Inner Horizontal Surface [Right Runway] Area Label D). A small portion of the property in the western part of the site is in Surface Area G; however, development is not currently shown in this area. Pursuant to Section 27-548.55, most of the property must also meet the requirements of the Noise Intensity Zone (60 dB–74 dB). A portion of the property in the western part of the site must meet the requirements of the High Noise Intensity Zone (75+ dB).

Structures within Surface Area D shall not exceed 150 feet in height, pursuant to Section 27-548.54(e)(2)(C). Conformance with the height requirements of the M-I-O Zone will be evaluated at the time of DSP review when buildings are proposed.

Residential structures within the Noise Intensity Zone and High Noise Intensity Zone are required to demonstrate that all interior noise levels will be mitigated to 45 dBA Ldn or less. Certification by a professional engineer, with competency in acoustical analysis, shall be placed on the building permits stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA Ldn/DNL or less. Certain uses, including some recreational facilities, are prohibited in the High Noise Intensity Zone. However, the PPS does not include any of the prohibited uses within the portion of the property subject to the High Noise Intensity Zone.

7. **Stormwater Management**—An approved Stormwater Management Concept Plan (SWM), 37486-2017-00, and letter have been submitted, which show the use of micro-bioretenion, bioswales, drywells, and stormdrain outfalls. The SWM concept plan and letter are valid until March 25, 2022. In addition, referral comments from the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE) dated March 9, 2022, indicate that the PPS is not consistent with approved SWM Concept Plan 37486-2017-00, due to a reconfiguration of townhouses near Tina Lane and Sybil Lane. Pursuant to Section 27-282(e)(11) of the Zoning Ordinance, a revised and approved SWM concept plan will need to be submitted prior to acceptance of a DSP for the site, which will need to demonstrate consistency with the PPS lot layout and development.

In accordance with Section 24-130 of the Subdivision Regulations, development of the site shall conform with the SWM concept plan and any subsequent revisions to ensure no on-site or downstream flooding occurs.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of Plan 2035, the sector plan, the *Land Preservation, Parks and Recreation Plan for Prince George’s County*, the *2040 Functional Master Plan for Parks, Recreation, and Open Space*, and the Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreation and facilities.

The subject property was rezoned M-X-T as part of the SMA, “in accordance with the sector plan recommendation for mixed-use development in the Westphalia town center fringe area.” One of the sector plan goals is to promote compact, mixed-use development at moderate to high densities through the development of a regional center on the MD 4 corridor, in accordance with the amended 2002 General Plan (note that the sector plan was approved prior to the current general plan, Plan 2035).

This property is located approximately 0.5 mile west of the westernmost extension of the proposed Westphalia Central Park, a premier park currently being developed. Once completed, the park will provide playgrounds, a network of trails, tennis and basketball courts, informal fields and lawn areas, a recreational pond, a seasonal ice rink, and several other amenities for public enjoyment. An existing side path along Central Park Drive will provide a safe route to the park from the subject site for bicyclists and pedestrians.

The applicant shall make a monetary contribution to a park club. The total value of the payment shall be \$3,500 per dwelling unit in 2006 dollars, as recommended by the sector plan (page 51). The Maryland-National Capital Park and Planning Commission (M-NCPPC) shall adjust the contribution amount using the Consumer Price Index for inflation at the time of payment. Monetary contributions shall be used to construct, operate, and maintain the public recreational facilities in the Westphalia Central Park and/or the other parks that will serve the sector plan area.

Mandatory dedication of parkland, pursuant to Section 24-134(a) Subdivision Regulations is required for this residential development. Mandatory dedication allows for dedication of land, payment of a fee-in-lieu, or provision of on-site recreational facilities, in order to meet the requirement.

The applicant proposed on-site recreation, and the PPS shows three locations for recreational features on the site. The recreational facilities are conceptually proposed to include a multi-age playground and two sitting areas. Given that there is no parkland abutting the subject property and the close proximity of Westphalia Central Park, on-site recreational facilities serving the residents are appropriate. The details of these amenities will be further reviewed and approved at the time of DSP.

Future residents will be best served by the provision of on-site recreational facilities, and the proposed on-site recreational facilities meet the requirements of mandatory parkland dedication, as required by Section 24-135(b) of the Subdivision Regulations.

The PPS is also in conformance with the applicable master plans and the requirements of Subtitle 24, as they pertain to parks and recreation facilities.

9. **Bicycle/Pedestrian**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the sector plan, and the Subdivision Regulations to provide the appropriate pedestrian and bicycle transportation recommendations.

Master Plan Pedestrian and Bike Facilities

The MPOT includes the following goal and policies regarding sidewalk and bikeway construction and the accommodation of pedestrians and bicyclists (MPOT, pages 7 and 8):

GOAL: Provide a continuous network of sidewalks, bikeways and trails that provide opportunities for residents to make some trips by walking or bicycling, particularly to mass transit, schools, employment centers, and other activity centers.

POLICY 2: Provide adequate pedestrian and bicycle linkages to schools, parks, recreation areas and employment centers.

POLICY 3: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

POLICY 4: Identify sidewalk retrofit opportunities for small area plans within the Developed and Developing Tiers in order to provide safe routes to school, pedestrian access to mass transit and more walkable communities.

POLICY 5: Plan new development to help achieve the goals of this master plan.

The sector plan also includes a policy and strategies related to sidewalks, bikeways, and trails (pages 43–46). The policy states that appropriate trails and bicycle and pedestrian facilities should be provided throughout the Westphalia area. The strategies all pertain to specific trail facilities which are mapped on Map 11 of the sector plan.

The applicant is proposing sidewalks on both sides of all the roads connecting externally from the subdivision, as well as all internal roads not including alleys. No designated bikeways are shown on the plan. The applicant shall provide an interconnected network of on-site pedestrian and on-road bicycle facilities that will be constructed to Prince George’s County Department of Public Works and Transportation (DPW&T) standards. These shall be shown on a pedestrian and bikeway facilities plan and on the DSP, prior to acceptance of the DSP. The facilities will be further reviewed with the DSP. With the provision of these facilities, the PPS will conform to the relevant recommendations of the MPOT and the sector plan, as they pertain to bicycle and pedestrian facilities.

Analysis of Bicycle & Pedestrian Impacts

This development is located within the Pennsylvania Avenue Corridor, and is, therefore subject to Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines – Part 2.”

The cost cap for the development’s off-site facilities, adjusted for inflation, is calculated as \$31,013.53.

Off-site Adequacy

The applicant has provided a bicycle and pedestrian impact statement (BPIS) to demonstrate pedestrian and bicycle adequacy, per Section 24-124.01. The applicant’s BPIS recommends the construction and upgrade to segments of sidewalks and Americans with Disabilities Act ramps along the MD 4 service road, in the section from the northern driveway of Ferguson Waterworks to the southern driveway for the Mid-Atlantic Carpenter’s Training Center, as depicted on Figure 5 of the BPIS.

There are other sections of the MD 4 service road, as well as Armstrong Lane, that could have been candidates for BPIS-related improvements, in the event the above recommended sidewalk construction cannot be completed. However, as part of the impending interchange construction of MD 4 and MD 337 (Suitland Parkway), these existing roadway sections will be replaced and any bicycle or pedestrian improvements installed by the applicant along them would be removed, as well. It would not be desirable to request an alternative BPIS improvement to the one recommended, as it is likely any alternative improvement made would be removed at a later date.

On-site Adequacy

On-site pedestrian and bicycle adequacy facilities are also required, pursuant to Section 24-124.01(b). The BPIS indicates that the site will be served by a series of interconnected pedestrian facilities and on-road bicycle facilities that will allow pedestrian and bicycle users to safely navigate the site and reach destinations outside of the site. The PPS shows that the layout

and design of the internal transportation network will accommodate these pedestrian and bicycle facilities.

Demonstrated Nexus

The identified off-site improvements will improve pedestrian connectivity to the surrounding area and will accommodate the planned interchange improvements at MD 337 and associated improvements to MD 4 Service Road. The off-site improvements are also within the estimated cost cap, per Section 24-124.01(c).

Pursuant to Section 24-124.01, there is a demonstrated nexus between the off-site facilities and improvements for the development and nearby destinations.

Based on the preceding findings, adequate bicycle and pedestrian facilities will exist to serve the subdivision, in accordance with Subtitle 24.

10. **Transportation**—Transportation-related findings for adequacy are made for this PPS, in accordance with the Subdivision Regulations, along with any needed determinations related to dedication, access, and general subdivision layout.

The development is projected to generate greater than 50 trips in either peak hour. Consequently, a traffic impact study was required as part of the evaluation of transportation adequacy. The findings below are based upon a review of the materials and analyses consistent with the “Transportation Review Guidelines - Part 1” (Guidelines).

Analysis of Traffic Impacts

The subject property is currently unimproved and is located within Transportation Service Area (TSA) 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 (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or less. Mitigation, per Section 24-124(a)(6), is permitted at signalized intersections within any TSA subject to meeting the geographical criteria in the Guidelines.

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:

For two-way stop-controlled intersections a three-part process is employed: (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.

For all-way stop-controlled intersections a two-part process is employed: (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.

The table below shows the intersections deemed to be critical, as well as the levels of service representing existing conditions:

EXISTING CONDITIONS		
Intersections	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 4 and Westphalia Road – Old Marlboro Pike	C/1171	D/1313
MD 4 and Suitland Parkway	E/1566	F/1652
Suitland Parkway Extended and Presidential Parkway *	10.2 seconds	13.2 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.		

The traffic study identified 21 background developments whose impact would affect some or all the study intersections. In addition, a growth of 1 percent over 6 years was applied to the traffic volumes along MD 4. As part of the analysis for background conditions, two changes to the road network are being considered:

- A new two-point diamond interchange replacing the at-grade intersection at MD 4 and MD 337. This interchange is currently fully funded and under construction.
- A new two-point diamond interchange replacing the at-grade intersection at MD 4 and Westphalia Road. This intersection is currently planned but not under construction.

Both interchanges will result in the creation of a new grade-separated intersection, and two new at-grade intersections. A second analysis was done to evaluate the impact of the background developments. The analysis revealed the following results:

BACKGROUND CONDITIONS		
Intersections	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 4 and Westphalia Road – Old Marlboro Pike		
MD 4 SB Off Ramp and Old Marlboro Pike	A/542	A/720
MD 4 NB Off Ramp and Westphalia Road	A/617	A/469
MD 4 and Suitland Parkway		
MD 4 SB Off Ramp and Suitland Parkway	A/693	A/501
MD 4 NB Off Ramp and Suitland Parkway	A/532	A/459
Suitland Parkway Extended and Presidential Parkway	C/1245	C/1227
Armstrong Lane and MC-634 *	8.1 seconds	8.1 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.		

Using the trip rates from the Guidelines, the study has indicated that the subject PPS represents the following trip generation:

Table 1 - Trip Generation							
	AM Peak			PM Peak			Daily
	In	Out	Total	In	Out	Total	
88 Dwelling units	12	50	62	46	24	70	704

The table above indicates that the development will be adding 62 AM, 70 PM peak trips and 704 daily trips. A third analysis depicting total traffic conditions was done, yielding the following results:

TOTAL CONDITIONS		
Intersections	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 4 and Westphalia Road–Old Marlboro Pike		
MD 4 SB Off Ramp and Old Marlboro Pike	A/542	A/720
MD 4 NB Off Ramp and Westphalia Road	A/617	A/469
MD 4 and Suitland Parkway		
MD 4 SB Off Ramp and Suitland Parkway	A/701	A/519
MD 4 NB Off Ramp and Suitland Parkway	A/536	A/463
Suitland Parkway Extended and Presidential Parkway	C/1286	C/1252
Armstrong Lane and MC-634 (unsignalized)	8.6 seconds	8.6 seconds

The results under total traffic conditions show that the intersections will all operate adequately. While the construction of the future interchange at MD 4 and MD 337 is fully funded for construction in Maryland's current Consolidated Transportation program, the funding for the interchange at MD 4 and Westphalia Road will come from contributions from developers within the Westphalia Sector Plan district.

Westphalia Public Facilities Financing and Implementation Program

On October 26, 2010, the Prince George's County Council approved Council Resolution CR-66-2010, establishing a Public Facilities Financing and Implementation Program (PFFIP) district for the financing and construction of the MD 4/Westphalia Road interchange. Pursuant to CR-66-2010 (Sections 6, 7, and 8), a cost allocation of the interchange has been determined for all the properties within the PFFIP district. The allocation for each development is based on the proportion (percentage) of average daily trips (ADT) contributed by each development passing through the intersection, to the estimated total ADT contributed by all the developments in the district passing through the same intersection. The PPS's future traffic impact or ADT becomes the basis on which each development's share of the overall cost is computed.

Analysis of PFFIP Contribution

The analyses show that the development will generate 704 daily trips. Given the proximity of the property to the failing intersection, there is a 60 percent trip assignment through that intersection. Consequently, this development will send $704 \times 0.6 = 423$ daily trips through that intersection. The proportional share (cost per trip) is \$1,034.98 for a total fee of \$437,796.54.

Master Plan Compliance

The property will be served by Armstrong Lane and the MD 4 Service Road, collectively also known as I-603 in the MPOT. I-603 is a two-lane industrial road along the site's southern and western boundary, with plans to upgrade to 2 lanes within a 70-foot right-of-way. No right-of-way dedication is required as part of this PPS. The PPS accommodates the master-planned roads; therefore, the PPS will conform with the MPOT and the sector plan recommendations for vehicular transportation.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, in accordance with Subtitle 24.

11. **Site Layout and Access**—The subject PPS creates 88 single-family attached lots and an outparcel. While the outparcel will have frontage on Armstrong Lane and the MD 4 service road, none of the 88 residential lots will have direct access to a public street. Rather, the development will access three private streets which are stub ended in the adjacent Cabin Branch subdivision, known as Waller Tree Way, Tina Lane, and Sybil Lane. The Cabin Branch subdivision street improvements must be both complete and open to traffic, prior to approval of any building permits for the construction of dwellings within the Wood Property.

In addition, for cross-access traffic to be possible through the three private street connections, public use access easements must be recorded within both the Wood Property subdivision and the Cabin Branch subdivision. Currently, a public use access easement is only recorded over Waller

Tree Way within the Cabin Branch subdivision. The easements provided should cover enough private streets within both subdivisions to allow for circulation to and from the adjacent public streets. This may be accomplished with a blanket easement over the private rights-of-way on each property. The two subdivisions are under common ownership, and the applicant has stated an intent to record the necessary easements to make cross-access possible. For the Wood Property, the draft easement document(s) shall be submitted to M-NCPPC for review and recorded in land records, prior to approval of a final plat. The applicant shall demonstrate that the necessary public use access easement(s) are also in place within the Cabin Branch subdivision, prior to approval of the Wood Property's final plat.

The CSP shows an extension of Waller Tree Way through the outparcel to the MD 4 service road. At the time of the PPS for the commercial and/or hotel development, the applicant should demonstrate that circulation to and from the MD 4 service road will be possible through this extension. This may be accomplished through an additional public use access easement. Responsibility for maintenance of Waller Tree Way, adjacent to the commercial and hotel development will also have to be determined at the time of the future PPS.

The use of private streets to serve townhouse development in the M-X-T Zone is permitted, in accordance with Section 24-128(b)(7)(A). Under this same provision, alleys may also provide vehicular access to townhouse lots where the lots front on a public street. Alleys are proposed to serve Lots 1–24, Block D of the Wood Property subdivision. However, the applicant has proposed these lots front on private streets and open space parcels, instead of a public street. In order to permit the use of alleys to serve these lots, the applicant has requested a variation from Section 24-128(b)(7)(A).

Variation

Section 24-113 requires that the following criteria be met for the Planning Board to approve a variation. The criteria are in **BOLD** text below, while findings for each criterion are in plain text.

- (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.**

The affected lots will have rear-loaded garage units which allow residents' vehicles to access the alleys and, in turn, the private streets. The design separates vehicular traffic using the alleys from pedestrian traffic using the sidewalks in

front of the units, reducing the number of sidewalk/driveway crossings and improving safety for residents and visitors. The design will not make it so the lots impede access to one another, and the lots are isolated from other properties outside of this subdivision. Therefore, granting 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 this property and are not applicable, generally, to other properties. The existing conditions are such that the site is bound to the north by a stream and, to the west and south, by existing roadways. The setbacks required from the stream and roadways form the developable area of the site, which is oriented to, and an extension of, the existing Cabin Branch Subdivision to the east. The affected townhouse lots are isolated from public streets, as access to the development is proposed only from, and as a continuation of, the existing private street network serving the Cabin Branch subdivision. Under the subdivision's current proposed configuration, it would be impractical to develop public streets to serve the townhouse lots because they would not connect to any other public streets, and so DPW&T would be unlikely to accept their ownership or maintain them.

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

The applicable regulation is unique to the Subdivision Regulations and is not regulated by any other law, ordinance, or regulations. Therefore, granting the variation will not violate any other legal requirement.

(4) Because of the 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.

Because of the property's particular physical surroundings, a particular hardship to the owner would result if the strict letter of these regulations is carried out. As stated above, the proposed townhouses are isolated from the nearest public streets surrounding the property. While it may be possible to reconfigure the proposed development to extend a public street from the MD 4 service road, requiring this would confer a particular hardship on the owner given that access can be more easily provided through the Cabin Branch subdivision's private streets, and the residents would not experience any particular benefits from having public street access rather than private street access.

- (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 property is not in any of the above listed zones; therefore, this section does not apply.

The site is unique to the surrounding properties, and the variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Therefore, a variation from Section 24-128(b)(7)(A) to allow Lots 1 through 24 to be served by alleys is approved.

12. **Schools**—This PPS has been reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations and Council Resolutions CR-23-2001 and CR-38-2002, *Amended Adequate Public Facilities Regulations for Schools*. Per Section 24-122.02(a)(2), the subdivision is considered adequate when the future student enrollment does not exceed 105 percent of the state-rated capacity. The subject property is located within Cluster 4, as identified in the *Pupil Yield Factors & Public-School Clusters 2020 Update*. The results of the school impact analysis are as follows:

Impact on Affected Public School Clusters by Dwelling Units

	Affected School Cluster		
	Elementary School Cluster 4	Middle School Cluster 4	High School Cluster 4
Townhouse Dwelling Units	88	88	8
Pupil Yield Factor (PYF) – Townhouse (TH)	0.114	0.073	0.091
TH x PYF = Future Subdivision Enrollment	10	6	8
Adjusted Student Enrollment 9/30/19	12,927	9,220	7,782
Total Future Student Enrollment	12,937	9,226	7,790
State Rated Capacity	15,769	9,763	8,829
Percent Capacity	82	95	88

Section 10-192.01 of the Prince George's County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$10,180 per dwelling if a building is located between I-95/I-495 (Capital Beltway) and the District of Columbia; \$10,180 per dwelling if the building is included within a basic plan or CSP that abuts an existing or planned mass transit rail station site operated by the Washington

Metropolitan Area Transit Authority; or \$17,451 per dwelling for all other buildings. This project is located outside I-95/I-495; thus, the surcharge fee is \$17,451 per dwelling. This fee is to be paid to DPIE at time of issuance of each building permit.

13. **Public Facilities**—In accordance with Section 24-122.01, water and sewerage, police, and fire and rescue facilities will be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated February 10, 2022 (Perry to Diaz-Campbell), incorporated by reference herein.

The development conforms with the requirements of the sector plan for public facilities (pages 48–50). The sector plan proposes no schools, police, fire, medical facilities, or libraries on this site. The public utility easements (discussed in more detail in the Public Utility Easement finding below) will contribute to a comprehensive underground utilities network for the area.

14. **Use Conversion**—The total development included in this PPS is for 88 townhouse dwellings in the M-X-T Zone. If a substantial revision to the mix of uses on the subject property is proposed, including any nonresidential development, that affects Subtitle 24 adequacy findings, as set forth in the resolution of approval and reflected on the PPS, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.
15. **Public Utility Easement**—In accordance with Section 24-122(a), 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 public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on the existing public rights-of-way of the MD 4 service road to the west and Armstrong Lane to the south. The PPS does not show PUEs along these streets because only the outparcel fronts on them. PUEs will be required along these streets at the time a PPS is proposed to develop the outparcel. There are no new public rights-of-way included with this PPS.

Section 24-128(b)(12) requires a 10-foot-wide PUE along one side of all private streets. All of the private streets are shown to meet this requirement on the PPS.

16. **Historic**—The subject property was recorded on a Determination of Eligibility form in 2014, which documented that the property appears to have been a farm with a gravel mining operation from the 1930s through 1960s. The subject property was determined not eligible for inclusion in the National Register of Historic Places. No Prince George’s County historic sites, resources, or districts will be impacted by the project. Due to modern disturbance on the subject property, a Phase I archeology survey is not required.

The sector plan includes goals, policies, and strategies related to historic preservation and archaeology (pages 66–68). However, due to the lack of historic resources on, and modern disturbance of the site, these are not applicable to the development.

17. **Environmental**—The subject PPS and a Type 1 Tree Conservation Plan (TCP1-011-2019-01) were received on February 3, 2022. Verbal and written comments were provided in an SDRC meeting on February 18, 2022. Revised information was received on February 28, 2022.

The following applications and associated plans for the subject site applicable to this case were previously reviewed:

Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
NRI-051-2016	N/A	Staff	Approved	4-21-2016	N/A
CSP-19007	TCP1-011-2019	Planning Board	Approved	11-21-2019	19-130
N/A	TCP2-002-2022	Staff	Pending	Pending	N/A
4-21038	TCP1-011-2019-01	Planning Board	Pending	Pending	Pending

Grandfathering

The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 that came into effect on September 1, 2010, because the application is a new PPS.

Site Description

The property is partially wooded and currently used for industrial use. 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 a small wetland along the northern property edge. The Prince George's County Department of the Environment watershed map shows the entire site is within the Western Branch of the Patuxent River basin. The site features various gradual slopes with some areas steeper than 15 percent, and generally drains to the north. The site is identified by DNR as within a Stronghold watershed area, Western Branch Patuxent River. The on-site stream is not a Tier 2 stream, 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. According to the 2017 *The Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan) the site contains evaluation areas. 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.

CONFORMANCE WITH APPLICABLE PLANS – Environmental

Sector Plan Conformance

The Environmental Infrastructure Section of the sector plan contains goals, policies, and strategies, which are applicable to the subject PPS. 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:

1. **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 no regulated areas or network gaps. The plan shows 1.58 acres of existing woodland as being preserved, and 0.22 acre of reforestation to promote retention of the on-site green space.

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

No impacts to regulated environmental features are included with this PPS. Preservation along the northern property line includes retention of the natural buffer for the portion of the on-site stream. This buffer provides additional protection for the stream system and associated wetlands systems. This area helps maintain a green corridor along the sensitive edge.

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

The PPS only includes development on the most developable portion of the site. The northern portion of the site is currently to remain undisturbed with green space along an off-site stream network. A portion of wetlands exists on-site with an associated stream system flowing to the north off-site. These features are to be placed within woodland conservation and supported by afforestation to further encourage protection of the network.

4. **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 Western Branch of the Patuxent River watershed. Preservation and restoration of the on-site stream system have been evaluated under the Environmental Review section of this finding.

5. **Limit overall impacts to the primary management area to those necessary for infrastructure improvements, such as road crossings and utility installations.**
6. **Evaluate and coordinate development within the vicinity of primary and secondary corridors to reduce the number and location of primary management area impacts.**
7. **Develop flexible design techniques to maximize preservation of environmentally sensitive areas.**

With regard to Policy 1, Strategies 5–7, no impacts to the PMA are included with this PPS.

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

Strategies:

1. **Remove agricultural uses along streams and establish wooded stream Z where they do not currently exist.**

The site does not contain agricultural uses.

2. **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 portion of the stream, which exists on-site, is being preserved in its entirety within the woodland conservation area. No impacts to the stream system are included with this PPS.

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

The PPS includes internal connections between this development and the adjacent site to the east. The PMA of the site is currently to remain undisturbed and be placed into a woodland conservation easement. No stream crossings are included with this PPS.

4. **Encourage shared public/private stormwater facilities as site amenities.**
5. **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 4 and 5, SWM is discussed in detail in the Environmental Review part of this finding, below.

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

Strategies:

1. **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 techniques and energy conservation techniques are encouraged for the development. The review of building materials will occur with subsequent site plan review, which includes details for the development.

2. **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:

1. **Limit the impacts of aircraft noise on future residential uses through the judicious placement of residential uses.**
2. **Restrict uses within the noise impact zones of Andrews Air Force Base to industrial and office use.**

3. **Evaluate development proposals using Phase I noise studies and noise models.**
4. **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.**
5. **Provide for the use of appropriate attenuation measures when noise issues are identified.**

Strategies 1 and 2 are specific to noise associated with Joint Base Andrews. The noise contours associated with Joint Base Andrews have been appropriately shown on the TCP1, in accordance with the M-I-O Zone. The westernmost portion of the site, adjacent to MD 4 is mapped within the 75+ dB zone. The remainder of the site is mapped in the 60–74 dB zone. The PPS includes single-family attached residential use on the site. The residential use is located within the areas mapped as 60–74 dB and 75+ dB. The development must meet the M-I-O Zone’s regulations for noise, contained in Section 27-548.54 and discussed in the Community Planning finding of this resolution.

Prior to signature approval of the PPS, the TCP1 needs to be revised to show the imaginary surfaces.

Conformance with the 2017 Countywide Green Infrastructure Plan of the Approved Prince George’s County Resource Conservation Plan

The site contains evaluation areas of the Green Infrastructure Plan. This area is comprised of a mostly wooded area with a portion of an on-site stream system at the northern property edge that flows off-site to the north.

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 an evaluation area.

The following policies and strategies are applicable to the subject PPS. 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 Western Branch of the Patuxent River basin, but is not within a Tier II catchment area. The site contains a stream system and associated minor wetland, part of which is within an evaluation area of the network. The current plan preserves the 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 fully preserved, with no impacts to the PMA. The design adequately preserves a connected wooded stream system. A TCP is required with this review and shows that 5.31 acres of the required woodland conservation requirement will be met on-site, which includes 1.80 acres of preservation and 0.22 acre of afforestation, with the remainder 3.51 acres being met off-site.

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 regulated environmental features is shown on this PPS. The environmentally sensitive areas on-site are 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 master-planned trails are shown on 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 will be required to be placed in Woodland and Wildlife Habitat Conservation Easements, prior to 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.**

The proposal has received SWM concept approval. The submitted Concept Plan (37486-2017-00) shows use of micro-bioretenion, bioswales, drywells, and stormdrain outfalls that do not impact the PMA to meet the current requirements of environmental site design, to the maximum extent practicable. No SWM features are being placed within the PMA.

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 provides 10 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 Environmental Technical Manual (ETM) and the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Tree canopy coverage requirements will be evaluated at the time of detailed site plan (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.**

Clearing of woodland is included with the subject PPS. 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 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.**

Protection of proposed dwellings from noise associated with noise corridors is addressed in the Noise finding of this resolution.

ENVIRONMENTAL REVIEW

Natural Resources Inventory Plan

A signed Natural Resources Inventory (NRI-051-2016) was submitted with the PPS. The site contains streams and associated buffers that comprise the PMA. The NRI indicates the presence of two forest stands, labeled as Stand A and Stand B respectively, with 18 specimen trees identified on-site and 6 trees off-site. The TCP1 and PPS show all required information correctly, in conformance with the NRI; however, the NRI does not show the PMA. The NRI shall be revised to indicate the PMA.

Woodland Conservation

This project is subject to the provisions of the WCO because it is a new PPS. This project is subject to the WCO and the ETM. TCP1-011-2019-01 was submitted with the subject PPS and requires minor revisions to be found in conformance with the WCO.

The woodland conservation threshold for this 18.09-acre property is 15 percent of the net tract area, or 2.71 acres. The total woodland conservation requirement based on the amount of clearing is 5.31 acres. The woodland conservation requirement is to be satisfied with 1.80 acres of on-site woodland conservation, consisting of 1.58 acres of woodland preservation and 0.22 acre of afforestation. The remaining 3.51 acres of woodland conservation is to be met off-site.

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

Specimen Trees

TCPs are required to meet all of the requirements of Subtitle 25, Division 2, of the County Code, which includes the preservation of specimen trees per Section 25-122(b)(1)(G). Every effort should be made to preserve the trees in place, considering the different species' ability to withstand construction disturbance. (Refer to the Construction Tolerance Chart in the ETM for guidance on each species' ability to tolerate root zone disturbances.)

If, after careful consideration has been given to the preservation of the specimen trees, there remains a need to remove any of the specimen trees, then a variance to Section 25-122(b)(1)(G) of the WCO is required. Applicants can request a variance to the provisions of the WCO, provided all the required findings in Section 25-119(d) of the WCO can be met. An application for a variance must be accompanied by a statement of justification (SOJ) stating the reasons for the request and how the request meets each of the required findings. A Subtitle 25 Variance Application and an SOJ in support of a variance, dated October 28, 2021, were submitted.

The SOJ requests the removal of 10 of the existing 24 specimen trees located on-site. Specifically, the applicant seeks to remove Specimen Trees (ST) 2, 3, 5, 11, 12, 13, 15, 16, 17, and 18. 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 poor condition, and are located on-site, outside of the PMA, within the upland residential development areas.

SPECIMEN TREE SCHEDULE SUMMARY FOR TREES PROPOSED FOR REMOVAL ON TCP1-011-2019-01

ST #	COMMON NAME	DBH (in inches)	CONDITION	APPLICANT'S PROPOSED DISPOSITION
2	White Oak	33	Good	Remove
3	Tulip Poplar	30	Poor	Remove
5	Northern Red Oak	34	Good	Remove
11	Northern Red Oak	31	Good	Remove
12	White Oak	39	Good	Remove
13	Northern Red Oak	39	Fair	Remove
15	Red Maple	38	Poor	Remove
16	Eastern White Pine	34	Good	Remove
17	Red Maple	46	Fair	Remove
18	Red Maple	32	Fair	Remove

Removal of the 10 specimen trees requested by the applicant is supported based on the findings required, in accordance Section 25-119(d)(1) below.

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

The property is 18.09 acres, and the TCP1 shows approximately 0.31 acre of PMA comprised of streams, wetlands, and associated buffers. This represents approximately 1.70 percent of the overall site area. The applicant is proposing to preserve the site's PMA to the full extent and is also proposing woodland conservation and afforestation to further protect the PMA. The majority of the specimen trees on-site are located along the property's northern boundary and are proposed to be preserved. The specimen trees proposed to be removed are located within the upland areas of the site proposed for residential development. These specimen trees are generally surrounded by the existing industrial use and so are isolated from other environmental features (ST 11–18), or are adjacent to an existing street in the Cabin Branch subdivision (Sybil Lane), which should be extended to make a continuous development pattern (ST 2–5).

These conditions are peculiar to the property and create an unwarranted hardship to the developer if the trees are required to be preserved. The location of the trees, without the variance, would prevent the applicant from developing the mixed-use property with a significant and reasonable use, suitable for the M-X-T Zone. In addition, the variance would allow the applicant to preserve the most sensitive features on-site, while allowing the development to proceed.

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

The proposed residential community includes housing options that align with the uses permitted in the M-X-T Zone. Enforcement of these rules to preserve all specimen trees, along with an appropriate percentage of their critical root zone, would deprive the applicant of the right to develop the property in a similar manner to other properties zoned M-X-T in the area, because the specimen trees requested for removal are located within the most developable part 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 to other applicants. If other similar residential developments were wooded with regulated environmental features and specimen trees in similar conditions and locations, it 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 applicant has taken no action leading to the conditions or circumstances that are the subject of the variance request. The removal of the specimen trees is the result of the location of the trees on the site and preserving the woodland conservation requirement on-site to achieve optimal development for the single-family attached dwelling subdivision with associated infrastructure.

(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 that 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

The removal of 10 specimen trees would have no measurable effect on water quality. In addition, the proposed woodland conservation area separates the development from the on-site stream, providing a buffer from the development. Furthermore, the project is subject to additional regulations protecting water quality. The project is subject to SWM regulations as implemented locally by DPIE. The project is subject to environmental site design, to the maximum extent practicable. Erosion and sediment control requirements are reviewed and approved by the Prince George's County Soil Conservation District. Both SWM and erosion and sediment 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, which are set to ensure that no degradation occurs.

The required findings of Section 25-119(d) have been adequately addressed for the removal of Specimen Trees 2, 3, 5, 11, 12, 13, 15, 16, 17, and 18; therefore, the variance to remove these trees is approved.

Soils

According to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, soils present include Marr-Dodon complex, Marr-Dodon-Urban land complex, Udorthents (Highway), and Udorthents (Reclaimed Gravel Pits). 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 (LOD), 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 LOD for the project can be verified and shown on the TCP2.

Preservation of Regulated Environmental Features

This site contains regulated environmental features that are required to be preserved and/or restored to the fullest extent possible under Section 24-130(b)(5). The on-site regulated environmental features include 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.”

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 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. 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 development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code.

No impacts to PMA are included with this PPS. Based on the level of design information available at the present time, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible, based on the LOD shown on the TCP1.

18. **Urban Design**—The development project will be subject to DSP review.

Conformance with the Requirements of the Prince George’s County Zoning Ordinance

Single-family attached residential (townhouse) units are permitted in the M-X-T Zone, subject to DSP review.

Conformance with the Zoning Ordinance regulations is required for the development at time of DSP review, including, but not limited to the following:

- a. Part 10, Subdivision 1, Requirements for the M-X-T Zone
- b. Section 27-547(b), Uses Permitted for the M-X-T Zone

- c. Section 27-548, Regulations in the M-X-T Zone
- d. Part 11, Off-Street Parking and Loading
- e. Part 12, Signs.

Section 27-548(h) requires that for townhouses in the M-X-T Zone, there shall be no more than 8 townhouses per building group, except where the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than 8 dwelling units (but not more than 10 dwelling units) would create a more attractive living environment or would be more environmentally sensitive. For the subject PPS, Lots 9–17, Block A, form a block of 9 dwelling units. The applicant submitted justification dated March 3, 2022, for the group of 9 units, which is incorporated by reference herein. The grouping will allow for a more attractive living environment in the subdivision. Allowing the dwellings north of Waller Tree Way to have a slightly more compact lotting pattern gives the necessary space for the continuous linear parks on both sides of Waller Tree Way.

Conformance with the Prince George’s County Tree Canopy Coverage Ordinance

In accordance with Section 25-128 of the County Code, properties in the M-X-T Zone are required to provide 10 percent of the gross tract area in tree canopy coverage (TCC). The subject site is 11.55 acres (subtracting the area of the outparcel) and so is required to provide 1.15 acres of the site under TCC. Conformance with this requirement will be evaluated at the time of DSP. The outparcel, when it is developed, will need to provide its own area under TCC.

Conformance with the Requirements of the Prince George’s County Landscape Manual

The site will be subject to Section 4.1, Residential Requirements; Section 4.9, Sustainable Landscape Requirements; and Section 4.10, Street Trees Along Private Streets, of the Landscape Manual. Conformance with landscaping requirements will be evaluated at the time of DSP.

19. **Noise**—A February 10, 2022 Phase I Noise Analysis was prepared by Polysonics Acoustics and Technology Consulting and was submitted by the applicant with this PPS. The analysis accounted for noise measurements from MD 4. The results of the analysis show that future traffic noise levels will be below 65 dBA Ldn in all outdoor activity areas, including rear yards. No noise barriers or other mitigation methods for the traffic noise are needed.

The analysis also showed that under future traffic noise levels, Lots 1–3 and 14–17, Block A, and Lots 1–9, Block B, will be impacted by traffic noise at their façades at 25 feet of height, experiencing noise levels above 65 dBA Ldn. This finding notwithstanding, all dwellings in the development may experience noise levels at their façades above 65 dBA Ldn due to the presence of Joint Base Andrews and the dwellings’ location within the noise zones of the M-I-O Zone. The building shells of all the residential structures on the site shall be designed to reduce interior noise levels of the dwelling units to 45 dBA Ldn or less, in order to meet the requirements of Section 27-548.55. Certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA Ldn/DNL or less.


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 Bailey, with Commissioners Washington, Bailey, and Geraldo voting in favor of the motion, with Commissioner Shapiro abstaining, and with Commissioner Doerner absent at its regular meeting held on Thursday, April 7, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28th day of April 2022.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:EDC:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: April 18, 2022