

R E S O L U T I O N

WHEREAS, Metroview LLC is the owner of a 3.72-acre parcel of land known as Parcel 129 and Parcel 185, and part of Parcel A, said property being in the 20th Election District of Prince George's County, Maryland, and being zoned Regional Transit-Oriented, High-Intensity - Core (RTO-H-C); and

WHEREAS, on June 24, 2022, Alta New Carrollton OZ Holdings, LLC filed an application for approval of a Preliminary Plan of Subdivision for one parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21057 for Alta New Carrollton 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 September 22, 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 accepted as complete before April 1, 2024, may utilize the prior Zoning Ordinance and Subdivision Regulations for development of a property; 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 September 22, 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 TCP1-013-2022, and further APPROVED Preliminary Plan of Subdivision 4-21057, including a Variation from Section 24-122(a) of the prior Prince George's County Subdivision Regulations, for one parcel with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised, as follows:
  - a. Remove the building footprint.

- b. Revise the label of existing public utility easements adjacent to the right-of-way line of Ellin Road, to denote them as proposed to remain.
  - c. Show the location and entire extent of the unmitigated 65 dBA Ldn and 70 dBA Ldn contour lines.
  - d. Show and label the line demarcating the boundary between the prior C-O and M-X-T Zones.
  - e. Revise General Note 6 to list the correct net acreage of the site, consistent with the approved natural resources inventory.
  - f. Revise General Note 7 to list the correct net developable area of the site outside of the primary management area.
  - g. Revise General Note 9 to list the acreage of the 100-year floodplain, consistent with the approved natural resources inventory.
  - h. Revise General Note 22 to provide the approval date of the stormwater management concept plan.
  - i. Revise General Note 28 to provide the Type 1 tree conservation plan number.
  - j. Add a general note stating the exemption under which this PPS may be reviewed, pursuant to the prior Subdivision Regulations and Zoning Ordinance.
  - k. Revise the Sheet Index on the Cover Sheet to list C-301 as "Preliminary Plan of Subdivision."
  - l. Label the extents of, and breaks in, the median located along Ellin Road on Sheet C-301, as proposed.
- 2. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan (40533-2021-00) and any subsequent revisions.
  - 3. In accordance with Section 24-135(b) of the prior Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall provide adequate on-site recreational facilities, in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
  - 4. Any on-site recreational facilities shall be reviewed by the Urban Design Section, Development Review Division, Prince George's County Planning Department, for adequacy and proper siting, in accordance with the Prince George's County *Parks and Recreation Facilities Guidelines*, with the review of the detailed site plan (DSP). Triggers for construction shall also be determined at the time of DSP.

5. Prior to submission of the final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assignees shall submit original executed private recreational facilities agreements (RFAs) to the Development Review Division (DRD) of the Prince George's County Planning Department, for construction of any 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.
6. Prior to approval of building permits, 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 any on-site recreational facilities.
7. Prior to approval of a final plat of subdivision:
  - a. The final plat shall note the Prince George's County Planning Board's approval of a variation from Section 24-122(a) of the prior Prince George's County Subdivision Regulations, in accordance with the approving resolution for Preliminary Plan of Subdivision 4-21057, for the public utility easement along Ellin Road.
  - b. The applicant and the applicant's heirs, successors, and/or assignees shall grant public utility easements (PUE) along the public right-of-way, in accordance with the approved preliminary plan of subdivision, for the PUE as indicated to remain.
  - c. The applicant and the applicant's heirs, successors, and/or assignees shall record a Public Use Easement Agreement for the public use of any portion of frontage sidewalk along Ellin Road on the subject property, as determined necessary at the time of detailed site plan. The easement agreement shall be approved by the Maryland-National Capital Park and Planning Commission, recorded in land records, and the Liber/folio shown on the final plat, prior to recordation. The final plat shall reflect the location and extent of the easement.
8. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised as follows:
  - a. Show the top and bottom elevations of the retaining walls.
  - b. The stormwater facilities shown on the TCP1 should match what is on the approved stormwater concept.
  - c. Have the revised plan signed and dated by the qualified professional preparing the plan.
  - d. Revise General Notes 6, 7, and 9, to be consistent with the approved natural resources inventory.

9. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-013-2022). 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 (TCP1-013-2022 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.”

10. 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.”

11. The applicant and the applicant’s heirs, successors, and/or assigns shall construct the following facilities and show these facilities on a pedestrian and bikeway facilities plan as part of the detailed site plan:

- a. Minimum 6-foot-wide sidewalk along the property frontage of Ellin Road, unless modified by the operating agency with written correspondence.
- b. Minimum 6-foot-wide landscape amenity panel along the property frontage of Ellin Road, unless modified by the operating agency with written correspondence.
- c. Minimum 5-foot-wide sidewalk throughout the site, where feasible, including Americans with Disabilities Act (ADA) curb ramps and associated crosswalks.
- d. Provide Americans with Disabilities Act (ADA) curb ramps and crosswalks crossing all vehicular access points.
- e. Long and short-term bicycle parking within the multifamily building and near the building entrance, in accordance with American Association of State Highway and Transportation Officials (AASHTO) guidelines.

12. At the time of detailed site plan, the applicant and the applicant’s heirs, successors, and/or assigns shall provide dedicated space for rideshare activities on-site.

13. Prior to certification of the detailed site plan (DSP), the DSP shall show the extent and location of any public use easements necessary to facilitate public access to any frontage sidewalks that are not located in the public right-of-way.
14. Prior to approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.
15. The detailed site plan shall include a Phase II noise report demonstrating that the interior of the building can be mitigated to 45 dBA Ldn or less, and that all outdoor activity areas can be mitigated to 65 dBA Ldn or less.
16. Prior to approval of building permits, the applicant, and the applicant's heirs, successors, and/or assignees shall submit evidence to the Subdivision Section, Development Review Division, Prince George's County Planning Department, that the Railway Vibration Analysis dated July 11, 2022, prepared by Phoenix Noise & Vibration, LLC, has been submitted to the Prince George's County Department of Permitting, Inspections and Enforcement.
17. The following note shall be placed on the final plat for the property, which may be subject to exposure to vibration impacts above the Federal Trade Authority levels for residential buildings:

“This property is located within close proximity to a railway line and may be subject to feelable vibration.”

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject site consists of two acreage parcels known as Parcel 129 and Parcel 185, and part of Parcel A of the Potomac Electric Power Company (PEPCO) Property, recorded in the Prince George's County Land Records in Plat Book WWW 49 plat number 73. The property is described in Land Records in Liber 15621 at folio 458, and it is 3.72 acres in area. The subject property is located in the Regional Transit-Oriented, High-Intensity - Core (RTO-H-C) Zone and was previously located within the Commercial Office (C-O), Mixed Use-Transportation Oriented (M-X-T), and Transit District Overlay (T-D-O) zones. This application was 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, and is subject to the 2010 *Approved New Carrollton Transit District Development Plan and Transit District Overlay Zoning Map Amendment* (New Carrollton TDDP/TDOZMA). 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-2022-011.

This PPS approves one parcel for development of 320 multifamily dwelling units. The subject property is currently vacant. The proposed development conforms to the purpose and intent of the TDDP.

Section 24-122(a) of the prior Subdivision Regulations requires that 10-foot-wide public utility easements (PUE) be provided along both sides of public rights-of-way. The property fronts on the public right-of-way of Ellin Road, which is located on the northwest side of the site. The applicant requested approval of a variation from the PUE requirement, which is discussed further in this resolution.

3. **Setting**—The site is located on Tax Map 51 in Grid F2. The subject property is located on the southern side of Ellin Road, approximately 300 feet east of Hanson Oaks Drive, within Planning Area 69. The following development abuts the subject site: Ellin Road to the northwest, with vacant land in the Agricultural and Preservation (AG) Zone and single-family residential development in the Residential, Single-Family-65 Zone beyond; vacant land in the AG Zone to the southwest; rail tracks used by freight, passenger, and WMATA Metro, and multifamily residential development in the RTO-H-C Zone beyond to the southeast; and a PEPCO substation to the northeast. The New Carrollton MARC and WMATA train station is located approximately 1,000 feet to the northeast of the subject site. The proposed Purple Line, which is currently under construction, is located within the Ellin Road right-of-way, with one if its tracks located adjacent to the subject property frontage. The light rail track is proposed to be above ground at this location.
4. **Development Data Summary**—The following information relates to the subject PPS and the proposed development.

	EXISTING	APPROVED
Zone	RTO-H-C	RTO-H-C (Evaluated per prior zoning: C-O/M-X-T/T-D-O)
Use(s)	Vacant	Multifamily Residential
Acreage	3.72	3.72
Dwelling Units	0	320
Gross Floor Area	0	0
Parcels	3	1
Lots	0	0
Outlots	0	0
Variance	No	No
Variation	No	Yes, Section 24-122(a)

Pursuant to Section 24-119(d)(2) and Section 24-113(b) of the prior Subdivision Regulations, this case and the associated variation request was heard at the Subdivision and Development Review Committee (SDRC) meeting on July 8, 2022.

5. **Previous Approvals**—Parcels 129 and Parcel 185 were previously the subject of PPS 4-89124, which was approved by the Prince George’s County Planning Board on September 7, 1989 (PGCPB Resolution No. 89-437). These parcels are depicted on the approved PPS as part of Parcel Y for development with office/retail use. Parcel Y was never recorded; 4-89124 has since expired and is no longer applicable to this property.

Parcel A is the subject of PPS 12-911 approved on October 30, 1963, for which no available records were found. In 1991, a 0.16-acre part of Parcel A was conveyed by PEPCO to the owner of Parcel 185, in exchange for a similar acreage of conveyance from Parcel 185 to PEPCO.

The subject site is part of a larger 71-acre site that was under several prior approvals, including Conceptual Site Plan CSP-90091 (PGCPB Resolution No. 90-398) and Detailed Site Plan DSP-90001 (PGCPB Resolution No. 90-56) and their amendments for general grading, office buildings along Harkins Road, and associated site improvements. The office buildings along Harkins Road have been constructed. No conditions of these previous approvals are relevant to this PPS. Since the site is qualified as an expedited transit-oriented development (ETOD) project, no revision to the previously approved CSP is required.

Detailed Site Plan DSP-90001-02 was approved by the Planning Board on September 29, 2022, for the multifamily residential development included in this PPS.

The subject PPS is required for the proposed development of multiple dwelling units, in accordance with Section 24-107 of the prior Subdivision Regulations. A final plat will be required, before permits can be approved for the subject site.

6. **Community Planning**—The 2014 *Plan Prince George’s 2035 Approved General Plan* (Plan 2035) and conformance with the TDDP were evaluated, as follows:

**Plan 2035**

Plan 2035 places this property in the New Carrollton Metro Downtown, which is also one of the County’s eight Regional Transit Districts. Regional Transit Districts are characterized as “medium- to high-density areas that should feature high-quality urban design, incorporate a mix of complementary uses and public spaces, provide a range of transportation options—such as Metro, bus, light rail, bike and car share, and promote walkability” (Plan 2035, page 19).

**TDDP**

The TDDP recommends mixed-use commercial land uses on the subject property. However, the uses proposed in this PPS conform to the permitted uses of the underlying zone per Prince George’s County Council Bill CB-049-2021. The site is in the Metro Core Neighborhood, which is envisioned to have the most active and intensively developed mix of uses, the most diverse development mix, and the tallest buildings. Ellin Road is a collector road and should function as a Complete Street.

### **SMA/Zoning**

The New Carrollton TDDP/TDOZMA retained the subject property in the C-O Zone, with a small portion of the site in the M-X-T Zone, and retained the entirety of the property in the T-D-O Zone. On October 19, 2021, Council Bill CB-049-2021 was adopted for the purpose of permitting development of multifamily residential use by-right in the C-O Zone, under certain circumstances. These specified circumstances are provided in Footnote 85 of Section 27-461(b) of the prior Zoning Ordinance, which is the Table of Uses for Commercial Zones:

### **Footnote 85**

#### **Permitted use, provided that:**

- (A) The use is located on one or more lots totaling less than four (4) acres in size;**
- (B) The property is located within a Transit District Overlay Zone and within an area designated as a Regional Transit District by Plan Prince George's 2035 General Plan;**
- (C) The property abuts an operating rail line; and**
- (D) Total development does not exceed one hundred (100) units per gross acre.**

The Council's adoption of CB-049-2021 has rendered the commercial land use recommendation of the TDDP no longer appropriate and, therefore, the PPS is found to be in conformance with prior Section 24-121(a)(5).

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 approved SWM Concept Plan (40533-2021-00) was submitted with this application. The SWM concept plan shows the use of micro-bioretenment facilities and underground storage.

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

8. **Parks and Recreation**—This PPS was reviewed and evaluated for conformance with the requirements and recommendations of Plan 2035, the TDDP, the 2022 *Land Preservation, Parks and Recreation Plan for Prince George's County* (LPPRP), the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, and the Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreational facilities.



The development aligns with the TDDP's intention to integrate and utilize landscape design to enhance open spaces that function as special places, whether public or private; to ensure safe, attractive, and accessible open spaces that provide recreational opportunities and support for outdoor public events; and the creation of attractive public parks that feature natural environments and/or recreational facilities that support both active and passive recreation.

Park and recreation amenities serving the subject property include the West Lanham Neighborhood Trail and the West Lanham Neighborhood Park, which is improved with a basketball court, a picnic shelter, a lighted outdoor tennis court, and a recreation center, and is within 0.51 miles of the proposed development. The Glenridge Park, developed with basketball, tennis, and volleyball courts, loop trails, playground, a multipurpose field, a picnic area and shelter, lake/pond fishing, and a horse pit, is located within 1.17 miles of the subject property.

Separate from the evaluation of adequacy, mandatory dedication of parkland requirements is applicable. This PPS was reviewed per the provisions of Section 24-134 of the prior Subdivision Regulations, which pertains to the mandatory dedication of parkland and provides for dedication of land, the payment of a fee-in-lieu, or on-site recreational facilities to meet the requirement. Per the Prince George's County *Parks and Recreation Facilities Guidelines* and based on the approved density of development, 15 percent of the net residential lot area could be required to be dedicated to the Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks, which equates to 0.56 acre for public parklands. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC. Therefore, 0.56 acre of parkland, if dedicated, would not be sufficient to provide the types of active recreational activities that are needed.

The *Parks and Recreation Facilities Guidelines* also set standards based on population. Based on the projected population for the development, 874 new residents, the typical recreational needs include picnic and sitting areas, playgrounds, open play areas, fitness trails, and basketball and tennis courts.

Per Section 24-135(b) of the prior Subdivision Regulations, the Planning Board may approve the payment of fees and/or the provision of on-site recreational facilities, in lieu of parkland dedication, provided the following are met:

- (1) **Such facilities will be superior, or equivalent, to those that would have been provided under and the provisions of mandatory dedication;**
- (2) **The facilities will be properly developed and maintained to the benefit of future residents of the subdivision through covenants, a recreational agreement, or other appropriate means, that such instrument is legally binding upon the subdivider and his heirs, successors, and assignees, and that such instrument is enforceable, including enforcement by the Planning Board; and**

- (3) **No permit for construction or occupancy of dwellings will be issued unless the Planning Board is satisfied that the facilities have been, or will be, provided at the appropriate state of development.**

On a conceptual basis, the applicant has proposed a sky lounge, a fitness center, a coffee station, two outdoor courtyards, and a swimming pool as recreational facilities.

The provision of on-site recreational facilities will best serve the future residents and meet the requirements of mandatory park dedication, as required by Section 24-135(b). These facilities are reviewed in further detail, at the time of DSP.

9. **Transportation (pedestrian, bicycle, and vehicular)**—This PPS was reviewed for conformance with the TDDP, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), and the Subdivision Regulations to provide the appropriate transportation facilities.

#### **MPOT AND TDDP CONFORMANCE**

##### **Right-of-Way**

The subject site is adjacent to the right-of-way of Ellin Road, which is designated as a collector roadway, with a variable width right-of-way of 60–80 feet, per the MPOT and the TDDP. The PPS adequately shows Ellin Road with its ultimate right-of-way configuration, per the MPOT and TDDP recommendations, and therefore no right-of-way is required to be dedicated as part of the subject PPS.

The segment of Ellin Road, along the property's frontage, will be reconstructed to facilitate the Maryland Department of Transportation's (MDOT) Purple Line light rail project. A long-term closure is in effect along Ellin Road, between MD 410 (East West Highway) and Hanson Oak Drive; and westbound Ellin Road lanes, between Hanson Oak Drive and Emerson Place, for Purple Line construction. The applicant submitted MDOT Purple Line project traffic design plans, which indicate that the right-of-way shown on the PPS is sufficient to meet the Purple Line roadway configuration.

##### **Pedestrian and Bike Facilities**

The MPOT provides policy guidance regarding multimodal transportation and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling (page 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 3: Small area plans within the Developed and Developing Tiers should identify sidewalk retrofit opportunities in order to provide safe routes to school, pedestrian access to mass transit, and more walkable communities.**

**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.**

As previously mentioned, the development is also subject to the TDDP, which indicates that **“Pedestrian and Bicycle Linkages...Intent...To develop walkable neighborhoods with contiguous linkages that support pedestrian and bicycle use, residential sociability and commercial activity”** (page 141). It also lists the intent and standards for bicycle parking, including a minimum of one bicycle parking space for every 20 off-street vehicular parking spaces (pages 168–169).

The above policies, strategies, and recommendations all support a multimodal community. The site is currently served by sidewalks along the entire property’s frontage along Ellin Road, but certain segments do not meet County and Americans with Disabilities Act (ADA) design standards. The property’s frontage, along Ellin Road, shall include a minimum 6-foot-wide landscape amenity panel and minimum 6-foot-wide sidewalk, unless modified by the operating agency. A public use easement shall be provided for any portion of pedestrian facilities that are located on the property. In addition, the site shall be served by an interconnected network of on-site pedestrian facilities and shall include pedestrian connections from the site to facilities along the property’s Ellin Road frontage.

Per the MPOT, the frontage along Ellin Road should include a bicycle lane. However, due to the proposed Purple Line light rail project, the applicant has provided justification that there is not enough room within the right-of-way to accommodate the facility, and that the MPOT recommended bicycle lane was not considered as part of the Purple Line construction plans.

#### **Transportation Planning Review**

The PPS proposes two stop-controlled, full vehicular access driveways to the site along Ellin Road. The overall circulation and proposed roadway configurations are acceptable. Given the residential nature of the subject application, the applicant should provide dedicated space for ride share pick-up/drop-off operations on-site. The exact location and details shall be evaluated with subsequent site plan applications.

Based on the preceding findings, the transportation facilities are in conformance with the MPOT, the TDDP, and the Subdivision Regulations.

10. **Public Facilities**—This PPS was reviewed for conformance to the TDDP, in accordance with Section 24-121(a)(5). The TDDP provides goals and policies related to public facilities (page 121). The proposed development aligns with the master plan goal to “Ensure that the public schools in the TDOZ area and surrounding communities are not overcrowded, feature cutting-edge technology and quality instructional opportunities, and serve as active centers for

their communities.” There are no police, fire, and emergency medical service facilities, schools, parks, or libraries proposed or designated on the subject property by the TDDP. This PPS is further supported by an approved Certificate of Adequacy, ADQ-2022-011, 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. This Public Safety Facilities Master Plan does not identify any location on the subject property for upgrades to existing facilities or construction of new facilities.

#### **Water and Sewer**

Section 24-122.01(b)(1) states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.” The 2018 Water and Sewer Plan placed this property in the water and sewer Category 4, Adequate for Development Planning. Category 4 comprises “properties inside the envelope eligible for public water and sewer for which the subdivision process is required.” Redesignation of the subject property to Category 3, Community System, through the Administrative Water and Sewer Category Change process will be necessary, prior to final plat approval.

11. **Public Utility Easement**—Section 24-122(a) of the Subdivision Regulations 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-foot-wide along both sides of all public rights-of-way, but the applicant does not propose to provide the easements along the public rights-of-way fronting the subject site. In order to be allowed to do so, the applicant needs to obtain a variation from this requirement. The subject site fronts on public right-of-way Ellin Road to the northwest. A 10-foot-wide PUE was dedicated along with the public right-of-way for Ellin Road in 1990, with the recordation of Plat Book NLP 156 plat number 30, pursuant to approved PPS 4-89124 and DSP-90001. The PUE extended along the frontage of Parcels 129 and 185. No PUE was recorded along the frontage of Parcel A with its recording plat (Plat Book WWW 49 plat number 73). With the commencement of the Purple Line light rail project, additional right-of-way along the property’s frontage with Ellin Road was taken by the State of Maryland. As a consequence of this right-of-way taking, the earlier 10-foot-wide PUE is now reduced to a PUE with inconsistent width, which is not continuous along the property’s current frontage with Ellin Road. The applicant filed a variation request from Section 24-122(a) for the provision of PUE along Ellin Road, and is further discussed below.

#### **Variation from Section 24-122(a)**

The PPS does not provide a 10-foot-wide PUE contiguous to Ellin Road. Section 24-122(a) states the following:

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

The standard requirement of the public utility companies is to provide a 10-foot-wide PUE along all public roadways. Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests, as follows:

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

- (1) **The granting of the variation will not be detrimental to the public safety, health, 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 easement along the public right-of-way fronting the subject site. The subject property abuts Ellin Road on its northwest side. The public right-of-way for Ellin Road has been improved, and is currently undergoing further improvements to accommodate the Purple Line light rail, which will be located within its right-of-way. As stated previously, a PUE was dedicated along the property's frontage with Ellin Road with Plat Book NLP 156 plat number 30. This plat also dedicated a 10-foot-wide PUE along the northern side of Ellin Road which was extinguished after widening of the Ellin Road right-of-way for the Purple Line light rail project. The plat, however, did not dedicate a PUE along the frontage of Parcel A, which abuts the subject site to the southwest. This parcel is currently owned by Prince George's County, is encumbered with a floodplain easement, and has no potential to be developed with a use which will require it to be served by utilities. To the northeast of the property lies the remainder of Parcel A owned by PEPCO and is used as an electric substation. In addition, the recording plat for this parcel did not dedicate a PUE along its frontage with Ellin Road.

Currently, there are two areas of PUE along the property's frontage, which are inconsistent in width and are not contiguous. At this time, there are no utilities located within this PUE. These remnants of previously dedicated PUEs will remain to extend existing utilities required to serve the proposed development using this PUE. The existing utilities will be extended from their nearest location within the Ellin Road right-of-way, to serve the mixed-use building proposed in this PPS. No future utility lines will be required to cross the Ellin Road frontage of the property, since the properties on either side of the subject site are either developed or have no potential to be developed. The omission of a contiguous, 10-foot-wide PUE along Ellin Road will have no impact on the utilities already provided and available for this development and the surrounding developments. Therefore, the granting of the variation will not be detrimental to the public safety, health, welfare or injurious to others or 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 site. The site is constrained by existing and proposed railway lines on two sides, with floodplain and an electric substation sandwiching the property on the other two sides. The site abuts Ellin Road to the northwest, a County-owned floodplain easement to the southwest, railway tracks to the southeast, and a PEPCO substation to the northeast. The right-of-way for Ellin Road is improved. All necessary utilities that normally would be provided within a PUE are located within the existing public rights-of-way of Ellin Road and its intersecting streets, Emerson Place and Hanson Oak Drive. There are no PUEs in place which could be utilized to extend the utilities to the subject site or to surrounding properties. A dry utilities plan, submitted as an exhibit and incorporated by reference herein, shows the location of existing dry utilities for the development. In the exhibit, the existing utilities running within the public right of-way of Ellin Road will be extended to serve the subject site.

In addition, the development of this site is guided by the TDDP, which contains site specific design criteria. This site is envisioned to have the most active and intensively developed mix of uses, the most diverse development mix, and the tallest buildings. The site will be designed, in accordance with these design criteria, with building front oriented toward Ellin Road. However, the location of buildings, streetscape requirements, and sidewalks along street frontages limits the available area for PUEs. Therefore, the utilities required to serve the development will be

extended from their location within the right-of-way of existing streets and within the PUE existing along the site's frontage.

Given the unique setting of this site, the design criteria generated by the TDDP and the fact that the utilities will not serve any additional properties in the future, the factors on which the variation is based are unique to this property and not generally applicable to other properties.

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

The requested variation will facilitate development of the property, as envisioned by the TDDP. The approval of a variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. Further, this PPS and variation request for the location of PUEs was referred to the affected public utility companies, and none have opposed the variation. No other law, ordinance, or regulation was found that would be violated by this variation.

**(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 strict letter of these regulations is carried out;**

The site is unusually situated, since it is sandwiched between railway lines on two sides and constrained by floodplain and an electric substation along the remaining two sides. The site abuts Ellin Road to the north, a County-owned floodplain property to the southwest, railway tracks to the southeast, and a PEPCO substation to the northeast. This limits the ability to expand the land area available for development. There are no PUEs in place abutting Ellin Road which could be utilized to extend the utilities to the subject site or to surrounding properties. In addition, the subject site fronts the future alignment of the Purple Line, and is located within the T-D-O Zone Metro Core Focus Area, which envisions the transformation of the New Carrollton Metro Station area into one of Prince George's County's premiere mixed-used "downtowns," with the most active and intensive mixed-use development in the New Carrollton Transit District. Strict adherence to this regulation will require placing a 10-foot-wide PUE along the north side of the property, which would require modifying the street standards of the TDDP, and consequently providing a layout that is at odds with the TDDP.

The existing development in the neighborhood and the location of the future Purple Line light rail in front of the property, as well as existing utility locations available to the subject site, constitute the particular physical surroundings applicable to this property. The requirement to provide additional 10-foot-wide PUE along Ellin Road would impede on the ability to provide the streetscape envisioned by the TDDP. In addition, the PUE would serve no additional purpose, since utilities have already been established and will not serve any additional properties in the future. These factors create a particular hardship to the owner in meeting the standard requirement.

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

The site is not located in any of the listed zones. Therefore, this criterion does not apply.

Based on the proceeding findings, the variation from Section 24-122(a) for the provision of PUE along the public right-of-way of Ellin Road is approved. The existing PUE adjacent to Ellin Road is correctly shown on the PPS, and shall be labeled as proposed to remain.

12. **Historic**—The TDDP contains minimal goals and policies related to historic preservation, and these are not specific to the subject site or applicable to the PPS. A search of current and historic photographs, topographic and historic maps, and the 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**—This PPS was accepted on June 24, 2022. Comments were provided to the applicant at the SDRC meeting on July 8, 2022. Revised plans and documents were received on August 12, 2022. The following applications and associated plans have been previously reviewed for the subject site:

Development Review Case Number	Associated Tree Conservation Plan or Natural Resources Inventory Number	Authority	Status	Action Date	Resolution Number
NRI-186-2021	N/A	Staff	Approved	03/03/2021	N/A
4-21057	TCPI-013-2022	Planning Board	Approved	09/22/2022	2022-101



### **Grandfathering**

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

### **Site Description**

The PPS is for a 3.72-acre site in New Carrollton. The site is located on the south side of Ellin Road with Amtrak and Metro rail lines southeast of the site. There are no streams or wetlands on-site; however, 100-year floodplain is adjacent to the site, with a small portion on-site. Steep slopes adjacent to the 100-year floodplain and stream are on-site and make up the primary management area (PMA). No forest interior dwelling species (FIDS) habitat or FIDS buffer are mapped on-site. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this overall property. The site drains to Lower Beaverdam Creek, which is a part of the Anacostia River watershed. No designated scenic or historic roadways are adjacent to the project site. The site is located within the Environmental Strategy Area 1 (formerly the Developed Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035. According to the *Countywide Green Infrastructure Plan* (Green Infrastructure Plan) of the 2017 *Approved Prince George's County Resource Conservation Plan* (May 2017), evaluation area is located in the central portion of the site.

### **Plan 2035**

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

### **TDDP Conformance**

The site falls within the Metro Core neighborhood of the TDDP. The TDDP does not indicate any environmental issues associated with this property.

### **Green Infrastructure Plan Conformance**

According to the Green Infrastructure Plan, evaluation area is located in the central portion of the site. While the green infrastructure elements mapped on the subject site will be impacted, the overall site has been previously graded, and the design of the site meets the zoning requirements and the intended growth pattern established in Plan 2035.

## **ENVIRONMENTAL REVIEW**

### **Natural Resources Inventory**

A Natural Resources Inventory (NRI-186-2021) was approved on March 3, 2022 and was provided with this PPS. There are no specimen trees located on this site. The 100-year floodplain runs along the western property line, with a small portion on-site. No other regulated environmental features (REF) are on-site. The Type 1 tree conservation plan (TCP1) and the PPS show all the required information correctly, in conformance with the NRI. No additional information is required regarding the NRI.

### **Woodland Conservation**

This site is subject to the provisions of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the application is for a new PPS. This project is subject to the WCO and the Environmental Technical Manual. TCP1-013-2022 was submitted with the PPS and requires minor revisions to be found in conformance with the WCO.

According to the TCP1, the woodland conservation threshold for this 3.72-acre property is 15 percent of the net tract area, or 0.56 acre. The total woodland conservation requirement, based on the amount of clearing proposed, is 0.56 acre. The woodland conservation requirement will be satisfied with 0.56 acre of off-site woodland conservation credits.

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

### **Specimen Trees**

There are no specimen trees located on this site.

### **Regulated Environmental Features**

There is PMA, comprised of REF, which include steep slopes associated with 100-year floodplain and a stream located off-site. Under Section 27-521(a)(11) of the prior Zoning Ordinance, the PPS shall demonstrate the preservation and/or restoration of the REF in a natural state, to the fullest extent possible. The development proposes impacts to the PMA. A letter of justification, with exhibits, was submitted by the applicant on June 23, 2022 for review with the PPS.

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 REF should be limited to those that are necessary for development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property, or are those that are required by the 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 the County Code.

The PPS includes impacts to the PMA. The two impacts are for fire access into the site, retaining walls, and to meet SWM requirements. The on-site impacts total approximately 0.48 acre.

**Impact 1 – Fire access, retaining wall and stormwater management**

The PMA impact on the western portion of the site for fire access, a retaining wall, and proposed underground SWM is considered necessary to the orderly development of the subject property. These impacts cannot be avoided because they are required by other provisions of County and state codes. Where possible, new native trees and landscaping shall be provided within the disturbed area of the PMA.

**Impacts 2 – Retaining wall and grading**

The PMA impact for a retaining wall and grading, on the south portion of the site, is necessary for stabilization of the potentially unstable soil type. These PMA impacts are considered necessary to the orderly development of the subject property and surrounding infrastructure.

The two PMA impacts for fire access, SWM, retaining walls, and associated grading are approved.

**Soils**

The predominant soil found to occur, according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, include the Christiana-Downer-Urban land complex, Russett-Christian-Urban land complex, and Udorthents, highway. Marlboro clay is not found to occur in the vicinity of this property.

A geotechnical report for this project, dated August 12, 2021 and revised on July 13, 2022, was submitted and reviewed. There are no geotechnical concerns for this project, at this time.

14. **Urban Design**—Conformance with the Zoning Ordinance and the TDDP was evaluated, as follows:

**TDDP Conformance**

The subject site is governed by the T-D-O standards approved with the TDDP. The subject site is located within the T-D-O Zone Metro Core Focus Area, which envisions the transformation of the New Carrollton Metro Station area into one of Prince George's County's premiere mixed-used "downtowns," with the most active and intensive mixed-use development in the New Carrollton Transit District. The Metro Core will contain the most diverse development mix and tallest buildings. It also will have mid- to high-rise residential units, office space, public parking, retail, and a new central square.

Multifamily dwellings are permitted on the property, subject to approval of a DSP. In accordance with the TDDP, the T-D-O Zone standards replace comparable standards and regulations of the Zoning Ordinance. Whenever a conflict exists between the T-D-O Zone standards and the Zoning

Ordinance or *Prince George's County Landscape Manual* (Landscape Manual), the T-D-O Zone standard shall prevail. For development standards not covered by the T-D-O Zone, the Zoning Ordinance or Landscape Manual shall serve as the requirements, as stated in Section 27-548.21 of the Zoning Ordinance. Conformance with the regulations and standards of the T-D-O Zone will be further reviewed at the time of DSP.

The T-D-O Zone has numerous development standards, including standards on building placement, street design, and architectural elements. While conformance with these requirements will be evaluated at the time of DSP, the applicant should be particularly mindful of the T-D-O Zone development standards that define spatial relationships within the subject site and with the surrounding neighborhood. Special attention should be paid to the development standards on lot coverage, building siting, parking, and streetscape elements.

#### **Prince George's County Zoning Ordinance Conformance**

All development proposals in a T-D-O Zone are subject to DSP review, and must also conform to the findings, as included in Section 27-548.08(c). Conformance with those requirements will be reviewed with the DSP.

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

The T-D-O Zone includes development district standards that replace many of the requirements of the Landscape Manual, and the project will be required to demonstrate conformance with the applicable transit district standards and Landscape Manual requirements that have not been modified by the T-D-O Zone standards, at the time of DSP.

#### **Prince George's County Tree Canopy Coverage Ordinance Conformance**

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require building and grading permits that propose 5,000 square feet or greater of gross floor area or disturbance. The property is zoned C-O/M-X-T, which will require a minimum of 15 percent of the gross tract area to be provided in TCC. Conformance with this requirement will be evaluated at the time of DSP.

15. **Noise**—The subject site is located northwest of five separate railway tracks; three nearest to the site are used by freight and passenger trains (CSX, Norfolk Southern, Amtrak, Amtrak Acela, and MARC) and the other two are owned and operated by WMATA for the Orange Line Metro. Based upon the plans for the future Purple Line light rail, the railway will run directly in front of the site, along Ellin Road, which places the nearest railway track within approximately 50 feet northwest of the proposed building. These railway lines are transit facilities and transportation-related noise generators. Two studies providing noise and vibration analyses were received for review. These studies address outdoor noise and ground-level vibration from railway noise sources and considers mitigation in the form of shielding from the proposed buildings, based on a preliminary site design.

No outdoor recreation areas are permitted within the area of the 65+ dBA day-night average sound level (Ldn), as mitigated, and interior noise levels must be reduced to 45 dBA Ldn or less. The study predicts that, with the shielding provided by the proposed buildings, the Ldn will not

exceed 65 dBA for any proposed outdoor activity, such as the two courtyards, and therefore no engineered noise barriers are required. The proposed multifamily building will be impacted by noise levels above 65 dBA Ldn, with a maximum impact of 72 dBA Ldn upon the southeast elevation facing the railway tracks. Living units exposed to noise levels greater than 65 dBA Ldn include all units located on the north, east, south, and west elevations. To mitigate interior noise levels for the proposed buildings, upgraded windows and doors will be required. Per the study, modifications to the proposed exterior wall construction will not be necessary. A Phase 2 noise report must be provided, at time of DSP, for the multifamily development to determine what specific mitigation is required to ensure that interior noise is mitigated to 45 dBA Ldn or less, and that all outdoor activity areas are mitigated to 65 dBA Ldn or less. The building materials for the multifamily buildings must be certified, at time of permit, by an acoustical engineer to state that interior noise levels have been mitigated to 45 dBA Ldn.

According to information provided within the Purple Line Final Environmental Impact Statement (FEIS), the Purple Line is not expected to generate vibration levels greater than the Federal Trade Authority (FTA) guidelines upon the site. Ground-borne vibration levels were measured at a distance from the existing rail lines located southeast of the site equal to that of the closest façade of the future multifamily building. The measurements determined that the existing rail lines generate ground-borne vibration levels above the FTA guidelines for perceptible railway vibration impact upon a residential building. This indicates that some trains may generate vibration which is “barely perceptible” within a building; however, the vibration levels at the site are not expected to result in structural or even minor cosmetic damage. When accounting for mitigation provided by the future building, the ground-borne vibration levels are slightly above the threshold, at which a future resident may find vibration from an occasional train event to be “barely perceptible.” The study concluded that no further mitigation is required. It is noted that the only mitigation that could be done would be to increase the setback of the buildings, which would result in the loss of buildable area. The FTA criteria for feelable vibration is 72 vibration decibels for residences and buildings where people normally sleep for frequent events, which include more than 70 trains per day. The FTA criteria should be strongly considered for development and placement of buildings, however, neither the State of Maryland nor the County Code have established regulations for development, as it pertains to vibration impacts. A note should be added to the final plat to acknowledge the proximity to the railway tracks and the potential for vibration impacts on buildings and occupants.

16. **Washington Metropolitan Area Transit Authority**—The subject property is located adjacent to the New Carrollton Metro Station, which is owned and operated by WMATA. This PPS application was referred to WMATA for review and comments on June 27, 2022. No referral or correspondence was received from WMATA.
17. **Referral to Adjoining Municipalities**—The subject property is located within one mile of the geographical boundaries of the City of New Carrollton, the City of Glenarden, and the Town of Landover Hills. The PPS application was referred to these municipalities for review and comments on June 24, 2022. No correspondence was received from any of the adjacent municipalities.


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 Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, Doerner, and Shapiro voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, September 22, 2022, in Upper Marlboro, Maryland.

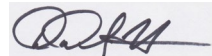
Adopted by the Prince George's County Planning Board this 6th day of October 2022.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

PAS:JJ:MG:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department  
Date: September 26, 2022