



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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Upper Marlboro, Maryland 20772  
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PGCPB No. 2022-108

File No. 4-21058

## RESOLUTION

WHEREAS, Timberlake Cedar Chase, LLC is the owner of a 22.29-acre parcel of land known as Parcel 5, recorded in Liber 15572 at folio 167; Parcel 118, recorded in Liber 15572 at folio 171; and Parcel 123, recorded in Liber 15594 at folio 275, said property being in the 7th Election District of Prince George's County, Maryland, and being zoned Residential Estate Zone; and

WHEREAS, on July 20, 2022, Timberlake Homes, BT filed an application for approval of a Preliminary Plan of Subdivision for 200 lots and 36 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21058 for Fairwood Square 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 October 20, 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 before April 1, 2024, may be reviewed and decided in accordance with the prior Subdivision Regulations; and

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

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

WHEREAS, on October 20, 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 TCP1-014-2022, and APPROVED a Variance to Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-21058, including a Variation from Section 24-121(a)(4), for 200 lots and 36 parcels, with the following conditions:

1. Prior to signature approval, the preliminary plan of subdivision shall be revised to provide the following:
  - a. Adjust the lot lines for Parcel A to provide frontage on the private right-of-way (Parcel C) and to fully encompass the proposed stormwater management facility.

- b. A note indicating that the southern vehicular access point along MD 450 (Annapolis Road) shall be limited to a right-in/right-out only access, unless modified by the operating agency with written correspondence.
  - c. A note stating that the mandatory dedication of parkland requirement is being addressed by providing on-site facilities.
  - d. Revise the commercial parcel to be indicated as Parcel 1 and provide consecutive lettering for all other parcels.
  - e. Label all parcels, saving the commercial parcel, to be conveyed to a community association.
- 2. Development of the site shall be in conformance with Stormwater Management Concept Plan 45700-2021, and any subsequent revisions.
- 3. Prior to approval, the final plat of subdivision shall include:
  - a. Right-of-way dedication along all roadways, in accordance with the approved preliminary plan of subdivision.
  - b. The dedication of 10-foot-wide public utility easements along all abutting public rights-of-way, and one side of private rights-of-way, as delineated on the approved preliminary plan of subdivision.
  - c. A note indicating that the southern vehicular access point along MD 450 (Annapolis Road) shall be limited to a right-in/right-out only access, unless modified by the operating agency with written correspondence.
- 4. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan shall be revised as follows:
  - a. Correct the preservation area table with the correct amount of area being preserved.
  - b. Add the following note below the specimen tree table: "This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on [ADD DATE] for the removal of specimen trees ST-2, 4, 7 ,8 and 17."
  - c. Have the plans signed and dated by the qualified professional who prepared them.
  - d. Correct the WCO worksheet to provide for 15 percent threshold.

5. Prior to approval of a detailed site plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
  - a. Signage and design features to facilitate a limited right-in/right-out only access driveway from the western access point along MD 450 (Annapolis Road), as well as the driveway design and exact details/profiles of the signage, unless modified by the State Highway Administration at the time of access permit.
  - b. A noise study certified by a professional engineer with competency in acoustical analysis demonstrating the proposed lots are not impacted, or that interior noise levels for dwellings impacted by the 65 dBA Ldn noise contour will be reduced to 45 dBA or less, and exterior recreational spaces will be reduced to 65 dBA or less.
6. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCPI-014-2022). 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 (TCPI-014-2022) [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. 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.”
7. Prior to the issuance of grading 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.”
8. At the time of final plat of subdivision, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated wetland and associated buffer, 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.”

9. Prior to the issuance of any permits which impact wetlands, wetland buffers, or waters of the United States, the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
10. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities as part of the development of the site, and show these facilities on a pedestrian and bikeway facilities plan, as part of the detailed site plan, prior to its acceptance:
  - a. A minimum 10-foot-wide shared-use path along the property frontage of MD 450 (Annapolis Road), unless modified by the operating agency with written correspondence.
  - b. A minimum 10-foot-wide shared-use path along the property frontage of MD 193 (Enterprise Road), unless modified by the operating agency with written correspondence.
  - c. A minimum 5-foot-wide sidewalk along both sides of the internal roadways throughout the site, including Americans with Disabilities Act curb ramps and associated crosswalks.
  - d. Provide Americans with Disabilities Act curb ramps and crosswalks crossing all vehicular access points.
  - e. Bicycle parking near the commercial building entrance, in accordance with American Association of State Highway and Transportation Officials (AASHTO) guidelines.
11. In accordance with Section 24-135 of the prior 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.
12. Prior to submission of the final plat of subdivision, 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.
13. 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 site plan. Timing for construction shall also be determined at the time of detailed site plan.
14. Prior to approval of a building permit, 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.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located in the southeast quadrant of the intersection of MD 450 (Annapolis Road) and MD 193 (Enterprise Road) and is 22.29 acres. The subject property is comprised of three parcels, recorded by deed in the Prince George's County Land Records as Parcel 5, recorded in Liber 15572 at folio 167; Parcel 118, recorded in Liber 15572 at folio 171; and Parcel 123, recorded in Liber 15594 at folio 275. The property is within the Residential Estate Zone under both the current Prince George's County Zoning Ordinance (known as the RE Zone) and the prior Zoning Ordinance (known as the R-E Zone). However, this PPS 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. In accordance with Section 24-1904(c) of the Subdivision Regulations, this preliminary plan of subdivision (PPS) is supported by and subject to approved Certificate of Adequacy ADQ-2022-020. The site is subject to the 2022 *Approved Bowie-Mitchellville and Vicinity Master Plan* (master plan), Subtitles 24 and 27 of the prior Prince George's County Code, and other applicable plans, as outlined herein. This PPS includes 200 lots and 36 parcels for development of 200 single-family attached dwellings and 5,000 square feet of commercial use. The site currently consists of agricultural development, which is to be removed.

Section 24-121(a)(4) of the prior Subdivision Regulations requires that lots adjacent to planned arterial classification roadways have a minimum lot depth of at least 150 feet and provide adequate protection and screening from traffic nuisances by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate. The subject property has frontage on MD 450 and MD 193, both of which are classified as arterial roadways. The applicant requested approval of a variation from this 150-foot lot depth requirement for 44 lots along MD 450 and MD 193. This request is discussed further in this resolution.

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

3. **Setting**—The property is located on Tax Map 45 in Grids E3, E4, and F3. The property is within Planning Area 71A. The properties abutting the subject site to the east consist of single-family detached dwellings within the Legacy Mixed-Use Community (formerly the Mixed Use Community) Zone. The properties abutting the site to the south consist of single-family detached dwellings within the RE Zone under the current and prior zoning. The properties to the west, beyond MD 193 and Glenn Dale Boulevard, consist of single-family detached dwellings and vacant land within the Residential, Rural Zone under the current and prior zoning. The properties

to the north, beyond MD 450, currently consist of vacant land and commercial development within the Commercial, General and Office (CGO) (formerly the Commercial Office) Zone.

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

	EXISTING	APPROVED
Zone	RE	RE
Use(s)	Agricultural	Residential/Commercial
Acreage	22.29	22.29
Lots	0	200
Parcels	3	36
Dwelling Units	0	200
Gross Floor Area	0	5,000 sq. ft.

There are 35 parcels proposed, which will provide open space and private roads that will serve the development, and 1 commercial parcel, along with the 200 residential lots. All parcels, saving the commercial parcel, should be conveyed to a single community association for proportional shared maintenance responsibility between the homeowners and the commercial development. Parcel A is designated as a homeowners association parcel on the proposed PPS, but is not accessible from the proposed private right-of-way. Parcel B, which is designated as a commercial parcel, separates Parcel A from the private right-of-way and the rest of the residential lots and parcels. A proposed stormwater management (SWM) facility is also located partially within both Parcels A and B. Prior to signature approval of the PPS, the lot lines for Parcel A shall be revised so that the SWM facility is entirely within Parcel A and to provide frontage on the private right-of-way, to ensure that the SWM facility is on a community association parcel and accessible for maintenance.

Pursuant to Section 24-119(d)(2) of the prior Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on August 5, 2022, along with the requested variation from Section 24-121(a)(4), as required, in accordance with Section 24-113(b) of the prior Subdivision Regulations.

5. **Previous Approvals**—No previous development approvals are associated with this property.
6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the master plan are evaluated, as follows:

**Plan 2035**

The subject property is located in the Established Communities growth policy area. The vision for the Established Communities is to create the most appropriate context-sensitive infill and low- to medium-density development (page 20).

**Master Plan Conformance**

Land Use strategy 17.1 of the master plan recommends the redevelopment of the former Frank's Nursery property at 12205 and 12105 Annapolis Road and 5015 Enterprise Road into commercial land use (page 76). Map 16, Future Land Use, designates this property in the Commercial future land use category (page 50).

Comprehensive Zoning strategy 11.1 of the master plan recommends the reclassification of the property to the CGO Zone to support the recommended commercial development (page 89). In accordance with Section 24-121(a)(5) of the prior Subdivision Regulations, a PPS must conform to the area master plan unless the Prince George's County Planning Board finds that events have occurred to render the relevant recommendations within the comprehensive plan no longer appropriate, is no longer applicable, or the Prince George's County District Council has not imposed the recommended zoning.

The District Council passed Prince George's County Council Bill CB-050-2021 in 2021, allowing townhouses and commercial uses that are generally permitted in the Mixed Use-Transportation Oriented (M-X-T) Zone, to be developed in the R-E Zone. The District Council has not imposed the recommended zoning. Therefore, this PPS satisfies the requirements of Section 24-121(a)(5).

7. **Stormwater Management**—An application for a major subdivision must include an approved 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. A SWM concept plan (45700-2021) approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) was submitted with this PPS. The SWM concept plan shows the use of 31 micro-bioretenention facilities, 1 submerged gravel wetland, and 1 pond.

Development of the site, in conformance with 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 has been reviewed for conformance with the requirements and recommendations of Plan 2035, the 2017 *Land Preservation, Parks and Recreation Plan for Prince George's County*, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, and the prior Subdivision Regulations as they pertain to public parks and recreation and facilities.

This PPS was reviewed for conformance to the master plan, per Sections 24-121(a)(5) and 24-122(b) of the prior Subdivision Regulations. The proposed development aligns with the master plan goals (pages 175–187) to provide connections and improved access to high-quality parks, recreation, and open space for residents of communities along the MD 450 Corridor.

Park and recreation amenities serving the subject property are within 0.45 miles of the site, which include the Fairwood Trail and the Fairwood Park, improved with a football and soccer field, a playground, pavilion, playfields, amphitheater, and walking loop trails. The Holehurst West Park,

developed with an outdoor tennis court, trails, playground, and a picnic shelter is located within 0.99 miles of the subject property.

Separate from the evaluation of adequacy, the mandatory dedication of parkland requirements is applicable. This PPS is being reviewed per the provisions of Section 24-134 of the prior Subdivision Regulations, which pertains to the mandatory dedication of parkland, and provides for the dedication of land, the payment of a fee-in-lieu, or on-site recreational facilities, to meet the requirement. Based on the proposed density of development, 15 percent of the net residential lot area should be required to be dedicated to the Maryland-National Capital Park and Planning Commission for public parks, which equates to 2.2 acres for public parklands. The current plan proposal calls for this requirement to be met with private on-site recreational facilities. The recreational guidelines for Prince George's County also set standards based on population. Based on the projected population for the development of 578 new residents, the typical recreational needs include picnic and sitting areas, playgrounds, open play areas, fitness trails, and basketball and tennis courts. In accordance with Section 24-135(b) of the prior Subdivision Regulations, the Planning Board may approve 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.**

At the August 5, 2002 SDRC meeting, staff recommended the creation of a larger and more centralized green space within the proposed development and suggested a revision of the site by combining proposed Parcels N, O, P, and Q (or alternative variation), to create a central open space tract accessible by all residents. During a virtual meeting on August 31, 2022, and in writing on September 13, 2002, (Point-By Point Response, page 3, Parks comments No.2) the applicant indicated that the design team developed two alternative layout options, both of which negatively impacted the development proposal due to either the loss of visitor parking or SWM impacts. As a result of the challenges presented, the lot layout as proposed is approved.

On a conceptual basis, the applicant has proposed outdoor recreational amenities that include a tot lot, sitting area and pergola, a grilling area, and tables. The applicant's proposal to provide on-site recreational facilities will meet the requirements of Section 24-135(b). These facilities will be reviewed in further detail at the time of detailed site plan (DSP).



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

**Master Plan Right of Way**

The subject site is served by the following master plan roads:

- MD 450, a four to six-lane arterial road (A-23) within a 120 to 150-foot-wide right-of-way. Within the northwestern property boundary, the applicant is proposing 0.22 acre of additional right-of-way dedication. This additional right-of-way dedication is consistent with the recommendation in the master plans.
- MD 193, a four-lane arterial road (A-27) within a 120 to 200-foot right-of-way. The portion of A-27 on which the property fronts is already built to its ultimate master plan cross-section. Consequently, no addition right-of-way is required.

**Master Plan Pedestrian and Bike Facilities**

This PPS is subject to the MPOT. The subject property fronts the recommended master-planned side path along MD 450, and the master-planned bicycle lane along the frontage of MD 193.

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.

**Policy 2:**

**All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.**

**Policy 4:**

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

This development is also subject to the master plan, which recommends minimum 10-foot-wide shared-use paths along MD 450 and MD 193, along the property frontage. The following policies and strategies are provided for pedestrian and bicyclist facilities (page 113):

**Policy TM 3:**

**Enhance active transportation infrastructure to create greater quality of life and attract businesses and employees.**

**Policy TM 7:**

**Develop a comprehensive shared-use path network in Bowie-Mitchellville and Vicinity to provide additional connectivity and travel options.**

**Policy TM 8:**

**Support development of traffic calming interventions to create safer streets for all users.**

**Policy TM 14:**

**Support active transportation infrastructure.**

The above policies, strategies, and recommendations all support a multimodal community. The applicant shall construct the master plan facilities along the frontages of MD 450 and MD 193, unless modified by the operating agency. In addition, a minimum of a 5-foot-wide sidewalk, landscape strip and associated Americans with Disabilities Act curb ramps and crosswalks should be provided throughout the site for continuous connections.

**Transportation Planning Review**

The latest PPS proposed two vehicular access points to the site along MD 450 via one right-in/right-out (southern access) and one full access point (northern access). The existing site currently operates with two access points, to which the southern access point is gated, and the northern access point is the primary driveway with full access movement. The southern access provides an approximate 400-foot corner clearance from the right turn movement from northbound MD 193, to which the Maryland State Highway Administration (SHA) recommends a minimum of 200-foot clearance. The proposed access locations, designated as the private street entrances to the subdivision, are acceptable. However, the access approval will ultimately need to be deemed acceptable by the operating agency, SHA.

The PPS includes 44-foot-wide private streets in addition to 22-foot-wide alleys. The right-of-way provided along the internal roadways is sufficient to accommodate a minimum 5-foot-wide sidewalk and 5-foot-wide landscape strip throughout the site.

Based on the preceding findings, the vehicular, pedestrian and bicycle transportation facilities will serve the proposed subdivision, meet the findings required of Subtitle 24 of the County Code, and conform to the master plan and MPOT.

10. **Public Facilities**—This PPS was reviewed for conformance to the master plan, in accordance with Section 24-121(a)(5). The master plan provides goals and policies related to public facilities (pages 165–177), including the goal to ensure “all students have quality educational instruction in modern facilities,” and have “fire and emergency medical (EMS) respond areawide in established response times” as well as schools, libraries, and public safety, parks and recreation, and water and sewer service policies, and strategies. There are no police, fire and emergency medical service facilities, schools, parks, or libraries proposed on the subject property. This PPS is further supported by an approved certificate of adequacy (ADQ-2022-020), which ensures adequate public facilities to support the proposed land use. The 2008 *Approved Public Safety Facilities*

*Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities, none of which affect this site.

Section 24-122.01(b)(1) of the prior Subdivision Regulations 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. Category 3 must be obtained via the Administrative Amendment process before approval of a final plat, which will be required by DPIE prior to their signature on the final plat.

11. **Public Utility Easement**—Section 24-122(a) of the prior 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 public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The subject site has frontage along the existing public rights-of-way MD 450 and MD 193. The PPS depicts the 10-foot-wide PUEs along both rights-of-way. Section 24-128(b)(12) of the prior Subdivision Regulations requires at least one 10-foot-wide PUE on either side of private rights-of-way. The PPS depicts 10-foot-wide PUEs along either side of all private rights-of-way.

12. **Historic**—A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. A Phase I archeology survey is not required. The subject property does not contain and is not adjacent to any designated Prince George’s County historic sites or resources. The master plan contains goals and policies related to historic preservation (pages 157–166). However, these are not specific to the subject site or applicable to the proposed development. This proposal will not impact any Prince George’s County historic sites, historic resources, or known archeological sites.
13. **Environmental**—PPS 4-21058, was accepted for review on July 20, 2022. Comments were provided in an SDRC meeting on August 5, 2022. Revised information was received on September 14, 2022. The following applications and associated plans have been reviewed for the subject site:

Review Case Number	Associated Tree Conservation Plan Number	Authority	Status	Action Date	Resolution Number
NRI-131-06	N/A	Staff	Approved	11/21/06	N/A
NRI-131-06-01	N/A	Staff	Approved	7/5/19	N/A
NRI-131-06-02	N/A	Staff	Approved	7/12/22	N/A
4-21058	TCP1-014-2022	Planning Board	Approved	10/20/22	Pending

**Grandfathering**

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

**Site Description**

The site was previously developed as a landscape nursery. A review of the available information indicates that regulated environmental features, such as a nontidal wetland with associated buffers, are present on-site. There are no streams or 100-year floodplain on-site. According to the Sensitive Species Project Review Area Map, received from the Maryland Department of Natural Resources Natural Heritage Program and used on PGAtlas, there are no rare, threatened, or endangered species found to occur on or near this property. The site has frontage on MD 450 and MD 193, which are both identified as master plan arterial roadways, and as historic roadways.

**Plan 2035**

The site is located within the Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map, as designated by Plan 2035. According to the 2017 *Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan), the southern half of the project area is identified in the evaluation area.

**Master Plan Conformance**

The master plan includes applicable goals, policies, and strategies. The following policies are applicable to the current project regarding natural resources preservation, protection, and restoration. The text in **BOLD** is the text from the master plan, and the plain text provides comments on plan conformance.

**Natural Environment Section*****Green Infrastructure*****Policy NE 1:**

**Ensure that areas of connectivity and ecological functions are maintained, restored, or established during development or redevelopment.**

**Strategies:**

**NE 1.1            Use the green infrastructure network as a guide to decision-making, and as an amenity in the site design and development review processes.**

The PPS has been found in conformance with the Green Infrastructure Plan. Protection of green infrastructure elements and regulated environmental features of the site will be further evaluated with future development applications.

**Policy NE 2:**  
**Preserve, in perpetuity, Nontidal Wetlands of Special State Concern (NTWSSC) within Bowie-Mitchellville and Vicinity (see Map 41. Nontidal Wetlands of Special State Concern (NTWSSC)—2017).**

**Strategies:**

**NE 2.1 Continue to protect the NTWSSC and associated hydrologic drainage area located within the following areas:**

- **The Belt Woods Special Conservation Area**
- **Near the Huntington Crest subdivision south of MD 197, within the Horsepen Branch Watershed.**
- **In the northern portion of Bowie Mitchellville and Vicinity adjacent to the Patuxent Research Refuge and along the Patuxent River north of Lemon Bridge Road.**

There are no NTWSSC within the vicinity of this property, as mapped on Map 41 of the master plan.

***Stormwater Management***

**Policy NE 3:**  
**Proactively address stormwater management in areas where current facilities are inadequate.**

This project is subject to SWM review and approval by DPIE. An approved SWM concept plan (45700-2021) was submitted with this PPS, which shows 31 micro bioretention facilities, 1 submerged gravel wetland, and 1 pond. A final SWM design plan in conformance with County and state laws will be required prior to issuance of any grading permits for this site.

***Forest Cover/Tree Canopy Coverage***

**Policy NE 4:**

**Support street tree plantings along transportation corridors and streets, reforestation programs, and retention of large tracts of woodland to the fullest extent possible to create a pleasant environment for active transportation users including bicyclists and pedestrians.**

**Strategies:**

- NE 4.1            Use funding from the Prince George's County Woodland Conservation Fund to reverse the decrease in tree canopy coverage in Folly Branch, Horsepen Branch, and Upper Patuxent River watersheds through reforestation programs.**
- NE 4.2            Plant street trees to the maximum extent permitted along all roads and trail rights-of-way (see Transportation and Mobility).**
- NE 4.3            Increase City of Bowie's funding for the Emerald Ash Borer Abatement Program.**

Development of this site will be subject to the requirements of tree canopy coverage (TCC) and the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO). Additional information regarding woodland preservation, reforestation, and TCC will be evaluated with future development applications.; however, the Type 1 tree conservation plan (TCP1) submitted with the PPS shows approximately 0.45-acre will remain in woodland. Street tree planting requirements will be reviewed by the Prince George's County Department of Public Works and Transportation (DPW&T).

***Impervious Surfaces***

**Policy NE 5:**

**Reduce urban heat island effect, thermal heat impacts on receiving streams, and reduce stormwater runoff by increasing the percentage shade and tree canopy over impervious surfaces.**

**Strategies:**

- NE 5.1            Retrofit all surface parking lots using ESD and best stormwater management practices when redevelopment occurs. Plant trees wherever possible to increase tree canopy coverage to shade impervious surfaces, to reduce urban heat island effect, limit thermal heat impacts on receiving streams, and slow stormwater runoff (see TM 11.1).**

- NE 5.2            Retrofit streets pursuant to the 2017 DPW&T Urban Streets Design Standards as recommended in the Transportation and Mobility Element, which include increased tree canopy cover for active transportation comfort and stormwater management practices.**

Development of the site will be subject to the current SWM regulations, which require that environmental site design (ESD) be implemented to the maximum extent practicable. Development of this site will be subject to the current woodland conservation ordinance requirements, including the TCC requirement. Street tree planting requirements will be reviewed by DPW&T.

### ***Climate Change***

**Policy 6:**  
**Support local actions that mitigate the impact of climate change.**

#### **Strategies:**

- NE 6.1            Support implementation of the City of Bowie Climate Action Plan 2020-2025 and the Metropolitan Washington 2030 Climate and Energy Action Plan.**
- NE 6.2            Continue to support and promote the Prince George's Climate Action Commission as per Council Resolution CR-7-2020 to develop a Climate Action Plan for Prince George's County to prepare for and build resilience to regional climate change impacts, and to set and achieve climate stabilization goals.**

Development of this site is subject to the current WCO and TCC requirements. The presence of woodland and tree canopy, particularly over asphalt and other developed surfaces, are proven elements to lessen climate impacts of development and the associated heat island effect, which are known contributors to climate change.

### **Green Infrastructure Plan**

According to the Green Infrastructure Plan, the southern half of the site is in the evaluation area, with the remainder of the site outside of the green infrastructure. The conceptual design, as reflected on the PPS and the TCP1, meets the goals of the Green Infrastructure Plan, and focuses development outside of the most sensitive areas of the site.

### **Environmental Review**

#### **Natural Resources Inventory**

A natural resource inventory (NRI-131-06-02) was approved on July 12, 2022 and was provided with this PPS. The site contains a nontidal wetland with its associated buffer. There are

11 specimen trees scattered throughout the site. The TCP1 and the PPS show all the required information correctly, in conformance with the NRI.

#### **Woodland Conservation**

This site is subject to the provisions of the WCO because the application is for a new PPS, as well as the Environmental Technical Manual (ETM). TCP1-014-2022 has been submitted with the subject PPS and requires minor revisions to be found in conformance with the WCO.

Based on the TCP1 submitted with this PPS, the site's gross area is 22.29 acres, contains 1.84 acres of woodland in the net tract, and has a woodland conservation threshold of 5.57 acres (25 percent). The woodland conservation worksheet proposes the removal of 0.92 acre in the net tract area, for a woodland conservation requirement of 6.30 acres. According to the worksheet, the requirement is proposed to be met with 0.45 acre of woodland preservation and 5.85 acres of reforestation off-site. The forest stand delineation has identified 11 specimen trees on-site. This PPS proposes the removal of five specimen trees. The site is zoned R-E, but conforms to Footnote 144 of Section 27-441, which allows the site to be reviewed under the M-X-T standards. The correct woodland conservation threshold for this development is 15 percent. A condition has been added that requires the TCP1 and associated worksheet be updated to provide the correct threshold.

Technical revisions to the TCP1 are required and included in the conditions listed at the beginning of this resolution.

#### **Specimen, Champion, or Historic Trees**

Tree conservation plans are required to meet all the requirements of Subtitle 25, Division 2 of the County Code, which includes the preservation of specimen trees in accordance with 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.)

The authorizing legislation of the WCO is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in the WCO are set forth in Section 25-119(d). Section 25-119(d)(4) of the WCO clarifies that variances granted under Subtitle 25 are not considered zoning variances.

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, a variance from Section 25-122(b)(1)(G) is required. Applicants can request a variance from the provisions of Division 2 of Subtitle 25 (the WCO), provided all the required findings in Section 25-119(d)(1) 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 a SOJ in support of a variance, dated August 11, 2022, were submitted.



The approved NRI identifies a total of 17 specimen trees; 6 trees are considered off-site, with 11 on-site. The following analysis is the review of the request to remove five specimen trees located on-site.

The SOJ requested the removal of 5 of the existing 11 specimen trees located on-site. Specifically, the applicant seeks to remove Specimen Trees 2, 4, 7, 8, and 17. The TCP1 shows the location of the trees proposed for removal. These specimen trees are proposed for removal for the development of the buildings and associated infrastructure.

**SPECIMEN TREE SCHEDULE SUMMARY  
FOR FIVE TREES PROPOSED FOR REMOVAL ON TCP1-014-2022**

Specimen Tree Number	Common Name	Dbh (Inches)	Condition	Applicant's Proposed Disposition
2	Red Maple	31	Good	Remove
4	American Sycamore	31	Poor	Remove
7	Pin Oak	35	Fair	Remove
8	Red Maple	31	Fair	Remove
17	Yellow Poplar	34	Poor	Remove

The required findings of Section 25-119(d)(1) are as follows:

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

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain Specimen Trees 2, 4, 7, 8, and 17. One of the trees is in good condition, two are in fair condition, and two are in poor condition. Those "special conditions" relate to the specimen trees themselves, such as their size, condition, species, and on-site location. Due to the topography of the site, placement of the SWM facility and entrance road is limited. The trees are located where necessary infrastructure must be placed; the health of the trees has a history of low survival tolerance to construction.

The property is 22.29 acres and contains a non-tidal wetland and associated buffer, which limits the developable areas of the site. These existing conditions are peculiar to the property.

The proposed use, single-family attached dwelling units and retail, is a significant and reasonable use for the subject site, and it cannot be accomplished elsewhere on the site without additional variances. Requiring the applicant to retain the five specimen trees on the site would further limit the area of the site available for development, to the extent that it would cause the applicant an unwarranted hardship.

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

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

The specimen trees proposed for removal are located within areas of the property integral to the effective development of the site. Specimen Tree 17 is located along the site's frontage on MD 450. Given the tree's poor condition and location, retaining the tree would pose a hazard to the site and the adjoining roadway. Grading and SWM are proposed in the location of Specimen Trees 2, 4, 7, and 8. Retention of these trees would have a considerable impact on meeting the development potential of this site. Therefore, given the location and species of the specimen trees proposed for removal, retaining the trees, and avoiding disturbance to the critical root zone would have considerable impact on the development potential of the property, and deprive the applicant a right commonly enjoyed by others in similar areas.

**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 properties contained regulated environmental features and specimen trees in a similar condition and location on a site, the same considerations would be provided during the review of the required variance application. If similar trees were encountered on other sites, they would be evaluated under the same criteria.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The removal of the five specimen trees would be the result of the grading required for the development to achieve optimal development for the single-family attached site. The request to remove the trees is solely based on the trees' locations on the site, their species, and their condition.

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

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

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

Granting this variance request will not violate state water quality standards, nor cause measurable degradation in water quality. The project is subject to SWM regulations, as implemented locally by DPIE. The project is subject to ESD to the maximum extent practicable. Erosion and sediment control requirements are reviewed and approved by the Prince George's Soil Conservation District. Stormwater management, 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 standards. State standards are set to ensure that no degradation occurs. The removal of five specimen trees will not directly affect water quality.

The required findings of Section 25-119(d) have been adequately addressed for the removal of Specimen Trees 2, 4, 7, 8, and 17.

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

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) of the prior Subdivision Regulations. The on-site regulated environmental features include a nontidal wetland and its associated buffer.

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

The revised TCP1 that was submitted September 14, 2022, shows part of a SWM pond outfall in the nontidal wetland buffer. Per Subtitle 32 of the County Code, DPIE is the approving agency for impacts to nontidal wetlands, when not associated with primary management area. DPIE has an approved SWM concept plan (45700-2021) showing this pond outfall in the nontidal wetland buffer.

#### **Soils**

The predominant soils found to occur on-site according to the United States Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey are Adelphia-Holmdel complex, Collington-Wist complex, and Collington-Wist-Urban land complex. Neither Marlboro clay nor Christiana complexes have been identified on or within the immediate vicinity of this property.

14. **Urban Design**—The subject application is evaluated for conformance with the applicable plans and requirements, as follows:

#### **Conformance with the Zoning Ordinance**

The District Council passed CB-050-2021 in 2021, allowing townhouses and commercial uses that are generally permitted in the M-X-T Zone to be developed in the R-E Zone, subject to Footnote 144, requiring conformance with three specific criteria including DSP approval. Conformance with these regulations and additional Zoning Ordinance regulations is required for the proposed development at the time of DSP review, including but not limited to the following:

**Footnote 144: Provided, and notwithstanding any other provision of this Subtitle, that:**

- a. **The uses are located on property or an assemblage of adjacent properties that:**
  1. **Prior to its subdivision to create any residential and commercial parcels or lots had a land area of at least twenty (20) acres;**
  2. **A portion of the boundary of the assemblage of adjacent properties is located at, and has frontage on, two intersecting roadways with a functional transportation classification of arterial or higher on the Master Plan of Transportation;**

3. **A portion of the boundary of the assemblage of adjacent properties is adjacent to property that is located in a mixed-use zone or planned community zone.**

The subject property meets the minimum acreage requirement with 22.29 acres and has frontage on intersecting arterial roadways MD 450 and MD 193, and is adjacent to a mixed-used zone property to the east.

- b. **A Detailed Site Plan shall be approved in accordance with Part 3, Division 9 of this Subtitle. Regulations concerning the net lot area, lot coverage, and green area, lot/width frontage, yards, building height, density, accessory buildings, minimum area for development, and any other requirements of the R-E Zone shall not apply. The maximum residential density shall not exceed 200 dwelling units. The applicable regulations for the M-X-T Zone as set forth in CB-50-2021 (DR-3) 4 Sections 27-544(a) and 27-548(h) shall apply.**

Conformance to Criteria B shall be reviewed at the time of DSP.

- c. **Notwithstanding the Table of Uses for the M-X-T Zone in Section 27-547(b), a gas station shall be prohibited. All other uses must be consistent with uses in the M-X-C Zone.**

The applicant proposal conforms to Criteria C.

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

The proposed development is subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual), including Section 4.1, Residential Requirements; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets. Conformance with the applicable landscape requirements will be evaluated and determined at the time of DSP review.

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

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area or disturbance and require a grading permit. The property is in the R-E Zone, but conforms to Footnote 144 of Section 27-441, which allows the site to be reviewed under the M-X-T standards and will require 10 percent of the gross tract area to be covered in tree canopy. Compliance with the TCC requirements will be evaluated at the time of DSP review.

#### **Other Urban Design Issues**

The proposed development consists of both townhouses and commercial uses that are adjacent to existing single-family detached dwellings on both the east and south sides of the site. The

Landscape Manual requires bufferyards along the property lines of those two locations. Specific buffering requirements will be reviewed at time of the DSP and the required plantings should not be provided on the individual residential lots.

Additional parking spaces, in combination with on-street parking for residents and visitors, should be evaluated. In the past, the Planning Board required up to 10 percent more parking than that normally required by the Zoning Ordinance, in compact townhouse developments like this one. The applicant should provide additional parking spaces for guests in strategic locations throughout the development, to the extent practical, which may result in the loss of some lots. Parking will be further reviewed with a future DSP.

15. **Noise Analysis**—Section 24-121(a)(4) requires lots adjacent to planned arterial classification roadways have a minimum lot depth of at least 150 feet, and to provide adequate protection and screening from traffic nuisances by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate. The subject property has frontage on MD 450 and MD 193, both of which are classified as arterial roadways. The applicant requested approval of a variation from this 150-foot lot depth requirement for 44 lots along MD 450 and MD 193, and proposes that any residential lots impacted by noise levels higher than 65 decibels will receive architectural soundproofing. The applicant submitted a noise study dated March 16, 2022. The study provides estimates that identify the location of the unmitigated 65 dBA Ldn noise contours for MD 450 and MD 193, based on expected 2027 traffic using the U.S. Federal Highway Administration noise projection procedure. The study estimates that none of the residential lots proposed with this PPS will be affected. However, the noise projections do not take into account topography or the collective noise of the intersecting roadways. The noise study should take into account existing traffic noise conditions to measure current and projected impacts. This study should be certified by a professional engineer with competency in acoustical analysis and provided at the time of DSP. If the updated study indicates that the 65 dBA Ldn noise contours affect any residential lots proposed with PPS or any parcels used for recreation, mitigation techniques shall be provided to reduce interior noise levels to 45 dBA or less, and 65 dBA or less for exterior recreational spaces.

The applicant requested a variation from the minimum 150-foot lot depth on 44 lots adjacent to MD450 and MD 193, in accordance with Section 24-121(a)(4), which sets forth the following required criteria for approval of a variation (in **BOLD**), followed by the findings in plain text:

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

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

**the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

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

The intent of Section 24-121(a)(4) is to provide enough lot depth to protect residential lots from noise and other effects of traffic along arterial or higher classification roadways. The noise study submitted by the applicant estimates that none of the proposed residential lots will be affected. However, a more detailed noise study will be required at the time of DSP. If the proposed residential lots are impacted, mitigation such as architectural soundproofing, fencing, or berms can be used to reduce impacts. The granting of this variation would only impact the use proposed on the subject property. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property.

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

The conditions on which the variation is based are unique to the subject site and not generally applicable to other properties. The District Council's adoption of CB-050-2021 permitted M-X-T uses on property provided it has frontage on two intersecting roadways with a functional transportation classification of arterial or higher, which increased the likely hood of possible conflicts regarding noise impacts. This is not generally applicable to any other properties.

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

No other applicable law, ordinance, or regulation was found that would be violated by this request. The approval of a variation, in accordance with Section 24-113 of the prior Subdivision Regulations, is unique to the Subdivision Regulations and under the sole authority of the Planning Board.

- (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;**

There are multiple factors regarding the physical shape and conditions that affect the property. As stated above, a 150-foot lot depth would be required adjacent to an arterial road. This specific site abuts two master plan arterial roads, which significantly decreases the amount of area to build. Open space parcels for

recreation, SWM parcels, and a commercial parcel to meet the provisions of CB-050-2021 are also needed to serve the residents, further decreasing the area for residential lots. In addition, when taking into account the woodland preservation area in the southern portion of the site, and shape of the property which tapers inward, the area available for residential lots outside of the 150-foot boundary is limited. The particular physical surroundings of the property create a hardship in meeting the strict regulation.

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

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

Based on the proceeding findings, the variation from Section 24-121(a)(4) for the required lot depth, along arterial rights-of-way MD 450 and MD 193, is approved.

16. **Planning Board Hearing**—The Planning Board held a public hearing on this application on October 20, 2022. At the hearing, and in rendering its decision, the Planning Board considered all written and oral testimony, along with all exhibits submitted according to the Planning Board's procedures. The Planning Board heard testimony from the applicant in favor of the application, and testimony from citizens opposed to the application.

At the hearing, citizens and a neighboring homeowners association represented by counsel, opposed the application. While the opponents raised important issues, much of the testimony and argument was not germane to considerations for approval of this PPS.

Citizen opposition, as well as the homeowner association's counsel, referenced concern for public facilities adequacy, such as transportation and schools. However, public facilities adequacy was not before the Planning Board, as it was addressed with the Certificate of Adequacy (ADQ-2022-020), which was approved by the Planning Director on October 4, 2022, prior to approval of the PPS, as required.

Opposition to the applicant's variation request from Section 24-121(a)(4) of the Subdivision Regulations was also voiced. The homeowner association's counsel argued that the applicant's request did not rise to the level of an extraordinary hardship, in accordance with Section 24-113(a) of the Subdivision Regulations. However, extraordinary hardship is just one of three justifications that can be used by an applicant. The other two being practical difficulties that 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. The opposition's counsel also provided a



written statement that references the required 150-foot lot depth required, in accordance with Section 24-121(a)(4), as a setback. However, the intent of this section of the Code is not to create a setback, but rather to provide lot depth that will allow the flexible location of dwellings and any necessary mitigation or buffering from a right-of-way, in case of noise impacts. As discussed in the Noise Analysis section of this resolution, it was not determined that the residential lots would be affected by noise impacts.

Citizen opposition, as well as the homeowner association's counsel, were in opposition to the proposed density. However, as discussed in this resolution in the Urban Design section and by staff at the hearing, density was determined by Prince George's County District Council Bill CB-050-2021, and the applicant has not exceeded the maximum allowance.


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, Doerner, Geraldo, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, October 20, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of November 2022.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

PAS:JJ:AH:jah

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department  
Date: November 1, 2022