



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2023-17

File No. 4-22034

R E S O L U T I O N

WHEREAS, the University of Maryland is the owner of a 42.91-acre parcel of land known as Parcel 140, said property being in the 21st Election District of Prince George's County, Maryland, and being zoned Local Transit Oriented – Edge (LTO-E); and

WHEREAS, on October 3, 2022, Brandywine MD Discovery District, LLC filed an application for approval of a Preliminary Plan of Subdivision for nine parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-22034 for Discovery District 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 February 16, 2023; 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 Prince George's County 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 February 16, 2023, 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 Preliminary Plan of Subdivision 4-22034, including a Variation from Sections 24-128(b)(12) and 24-122(a), for nine parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised, as follows:
 - a. Reflect roadway dedication along the entire site frontage along US 1 (Baltimore Avenue), to facilitate a minimum ultimate right-of-way (ROW) of 88 feet, in accordance with the 2010 *Approved Central US 1 Corridor Sector Plan and Sectional Map Amendment*, unless declined by the Maryland State Highway Administration (SHA) with written

correspondence. If declined, ROW dedication shall be provided to ensure all vehicular travel lanes are within the SHA ROW, and a public use easement is provided along Parcel B and Parcel 7's entire frontage on US 1 sufficiently wide, to accommodate the pedestrian frontage improvements.

- b. Reflect and provide dimensions for the existing frontage improvements along the property's frontage of Campus Drive, and demonstrate that 40 feet of dedication from the centerline of Campus Drive is provided.
 - c. Label the plan drawing to indicate that Diamondback Drive, north of Testudo Way, and the intersection of Diamondback Drive and Campus Drive are to be removed, prior to or concurrently with completion of construction of the intersection of Testudo Way and Campus Drive.
 - d. Dimension the street sections on the PPS to show the total right-of-way width (parcel line to parcel line) of each street section, and ensure that the private street parcels shown on the plan drawing are provided at the corresponding width.
 - e. Remove the labeling stating that the private road parcels are to be conveyed to a business owners association.
2. Development of this site shall be in conformance with Stormwater Management Concept Plan 16969-2022-0 and any subsequent revisions.
3. Prior to approval, the final plat of subdivision for each parcel shall include:
- a. Right-of-way dedication along all roadways, in accordance with the approved preliminary plan of subdivision.
 - b. A note reflecting the granting of a variation with the preliminary plan of subdivision, from Section 24-122(a) and Section 24-128(b)(12) of the prior Prince George's County Subdivision Regulations, to exclude the granting of public utility easements along the public and private streets.
 - c. A public use easement along the portions of US 1 (Baltimore Avenue) where pedestrian facilities are provided on-site, if applicable. The draft easement shall be reviewed and approved by the Subdivision Section of the Development Review Division of the Prince George's County Planning Department and be fully executed, prior to approval of a final plat for the development. The documents shall set forth the rights, responsibilities, and liabilities of the parties and shall include the rights of the Maryland-National Capital Park and Planning Commission. The documents shall be recorded in the Prince George's County Land Records, and the Liber/folio indicated on the final plat, prior to recordation.

4. 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 allocate appropriate and developable areas for, and provide adequate on-site recreational facilities for any parcels that include a residential building.
5. 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 Park and Recreation Facilities Guidelines, with the review of the site plan. Timing for construction shall be determined at the time of site plan review.
6. Prior to submission of the final plat of subdivision for any residential parcel, 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.
7. Prior to approval of building permits for residential development, the applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for construction of recreational facilities.
8. The internal private roadways of Testudo Way, Diamondback Drive, and Hotel Drive shall be designed in accordance with the cross-sections and specifications shown on the approved Preliminary Plan of Subdivision, 4-22034, and shall be shown on the applicable site plan submission, unless a modification to the sector plan development standards is requested, at the time of detailed site plan.
9. The site plan shall include the extent and limits of any public use easements, to facilitate public access for any pedestrian facility along the site's US 1 (Baltimore Avenue) frontage, if applicable.
10. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities and show these facilities on a pedestrian and bikeway facilities plan, as part of the site plan, prior to its acceptance:
 - a. Minimum 5-foot-wide sidewalks or wide sidewalks throughout the site where feasible, including Americans with Disabilities Act curb ramps and associated crosswalks.
 - b. Provide Americans with Disabilities Act curb ramps and crosswalks crossing all vehicular access points.
 - c. Provide the pedestrian and bicycle facilities and amenities where applicable, as described in the 2010 *Approved Central US 1 Corridor Sector Plan and Sectional Map Amendment*.

- d. Minimum 5-foot-wide bicycle lanes or 6.5-foot cycle tracks along the property frontage of US 1 (Baltimore Avenue), unless modified by the operating agency with written correspondence.
 - e. Long and short-term bicycle parking within the multifamily building and near the building entrance, and short-term bicycle parking near the entrances of the retail, in accordance with American Association of State Highway and Transportation Officials guidelines.
 - f. A bicycle fix-it station on-site.
11. At the time of site plan, the applicant shall consider providing dedicated space for rideshare activities.
12. Prior to approval of a final plat, the applicant and the applicant's heirs, successors, and/or assignees shall provide a draft covenant that ensures perpetual vehicular and pedestrian access for the subdivision parcels and maintenance for the private road parcels, for the review and approval by the Maryland-National Capital Park and Planning Commission (M-NCPPC), Subdivision Section. The covenant document shall set forth the rights, responsibilities, and liabilities of the parties and shall include the rights of M-NCPPC. The covenant may be an amendment to the existing declaration recorded among the Prince George's County Land Records at Liber 37039 folio 009. The new or amended covenant shall be recorded in land records and the book/page shall be indicated on the final plat, prior to recordation.
13. Prior to approval of any building permit(s) which proposes removal of the existing access provided by Diamondback Drive, north of Testudo Way, and the intersection of Diamondback Drive and Campus Drive, evidence shall be provided that construction of the intersection of Testudo Way with Campus Drive is either complete or will be completed concurrently with the removal of the existing access, and that said intersection shall be accessible from and to the subject property and adjoining hotel property. The existing access and utility easement recorded in Liber 37039 folio 009 shall be modified to remove the provision of the former access location, and provide access to Campus Drive via Testudo Way. This requirement shall be noted on the final plat.
14. At the time of permit, an approved forest conservation plan or an exemption from the Maryland State Forest Conservation Act issued by the Maryland Department of Natural Resources will be required to be submitted with all grading permits prior to their issuance.
15. In accordance with Section 27-548.43(b)(2) of the prior Prince George's County Zoning Ordinance, prior to final plat approval, a disclosure clause shall be approved for placement on the final plats and for inclusion in the deeds, subsequent to approval of this preliminary plan of subdivision, that notifies prospective purchasers that the property has been identified as within approximately one mile of a general aviation airport. The disclosure clause shall include the cautionary language from the General Aviation Airport Environment Disclosure Notice.

16. The following note shall be placed on the final plat:

“This property is located within APA-6 and is subject to the regulations of the Zoning Ordinance, Subtitle 27.”

17. Prior to acceptance of a detailed site plan, a geotechnical report shall be submitted delineating the location and extent of all unstable fill located within the limits of Preliminary Plan of Subdivision 4-22034.
18. At the time of detailed site plan, the applicant shall consider providing the following:
- a. An extension of Hotel Drive, east of Diamondback Drive, to provide access to Parcels 4, 5, and/or 6.
 - b. Parking hubs for micro-mobility vehicles.
19. If the development is to be phased, at the time of each detailed site plan, the applicant shall provide a development and roadway phasing plan.

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

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George’s County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The site is located in the southeast quadrant of the intersection of US 1 (Baltimore Avenue) and Campus Drive. The property is known as Parcel 140 and is recorded in the Prince George’s County Land Records in Liber CSM 2 folio 294. The property totals 42.91 acres. The property is within the edge area of the Local Transit Oriented (LTO-E) Zone, and is subject to Aviation Policy Area 6 (APA-6) associated with the nearby College Park Airport. However, this preliminary plan of subdivision (PPS) was submitted for review under 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. Under the prior Zoning Ordinance, the site was within the Mixed-Use Infill (M-U-I) Zone, the Development District Overlay (D-D-O) Zone, and APA-6, which were effective prior to April 1, 2022. The 2010 *Approved Central US 1 Corridor Sector Plan and Sectional Map Amendment* (sector plan) is applicable to this development.

The site is currently developed as part of the campus of the University of Maryland (UMD). The southern part of the site is occupied by existing institutional buildings, including but not limited to Fraternity Row, the Leonardtown student residential community, Ritchie Coliseum, and the UMD energy plant. In total, there are 391,402 existing square feet of institutional development and 68 existing dwelling units on the site, none of which are to be razed at this time. The northern

part of the site is occupied by existing parking lots which are to be razed to make way for new development.

This PPS is for subdivision of the property into 9 parcels, for development of 285 new multifamily dwellings and 524,000 new square feet of commercial development, in addition to the existing university buildings described above. Parcels 1–3 are proposed for new commercial development; Parcel 4 is proposed for new multifamily development; and Parcels 5–7 are proposed for the existing institutional development. Parcels A and B will be used as private streets, and shall be subject to a covenant to ensure the perpetual joint use and maintenance of the private streets. This may be an amendment to a prior covenant for existing streets on-site which is recorded in Liber 37039 folio 009. In total, there will be 915,402 square feet of nonresidential development and 353 dwelling units on-site when adding together the existing and proposed development.

The site has never been the subject of a PPS; therefore, the PPS is required for the division of land, the construction of more than 5,000 square feet of nonresidential floor area, and the construction of multiple dwelling units. It is further noted that the development is not exempt from submission of a PPS and final plat under Section 24-107(c)(5) of the prior Prince George's County Subdivision Regulations because UMD intends to convey Parcels 1–4 to a private developer, and the new uses are proposed to be private. In accordance with Section 24-1904(c) of the Subdivision Regulations, this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2022-013.

The applicant filed a request for a variation from the prior Subdivision Regulations, to omit the provision of new public utility easements (PUEs) with this PPS. The request requires variation from Section 24-128(b)(12) of the prior Subdivision Regulations, for PUEs along private streets, and Section 24-122(a) of the prior Subdivision Regulations, for PUEs along public streets. This request is discussed further in the Public Utility Easement finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 33 in Grids D-2, D-3, and C-3, and it is within Planning Area 66. West of the site is US 1, with the main campus of UMD in the Rural Residential Zone beyond. East of the site is Campus Drive, with wooded land owned by UMD, the Maryland-National Capital Park and Planning Commission (M-NCPPC), the City of College Park, and the Washington Suburban Sanitary Commission in the Reserved Open Space Zone beyond. South of the site are additional grounds of UMD in the LTO-E and Neighborhood Activity Center Zones (formerly in the M-U-I Zone), with neighborhoods in the Old Town College Park Historic District beyond within the Residential Single Family–65 and Residential Multifamily–20 Zones (formerly within the One-Family Detached Residential and Multifamily Medium Density Residential Zones). The site and its surroundings are within APA-6 associated with the nearby College Park Airport. This PPS was evaluated according to the standards of the APA-6 Zone within the prior Zoning Ordinance.
4. **Development Data Summary**—The following information relates to the subject PPS and the approved development.

	EXISTING	APPROVED
Zones	LTO-E	LTO-E (reviewed per prior M-U-I and D-D-O standards)
Use(s)	Institutional	Institutional, Office, Commercial, Multifamily
Acreage	42.91	42.91
Parcels	1	9
Lots	0	0
Dwelling Units	68	353
Nonresidential Gross Floor Area	391,402 sq. ft.	915,402 sq. ft.
Variance	No	No
Variation	No	Yes (24-128(b)(12) and 24-122(a))

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 October 14, 2022. A requested variation for PUE placement was accepted on October 3, 2022, along with the PPS, and also heard at the SDRC meeting on October 14, 2022, as required by Section 24-113(b) of the prior Subdivision Regulations. At the SDRC meeting, it was clarified that based on where PUEs were requested to be omitted, variation would be needed from Section 24-128(b)(12), for PUEs along private streets, and Section 24-122(a), for PUEs along public streets.

5. **Previous Approvals**—There are no previous development approvals applying to the subject site. The Purple Line will pass through this site along Rossborough Lane (located near the northern edge of Parcel 7), and the Prince George’s County Planning Board previously provided comments on the Purple Line project via Mandatory Referral MR-1402F, in 2014. Construction of the Purple Line through the property will not directly affect the proposed development. Although Rossborough Lane will be connected to Campus Drive as part of the construction, it is not known when this will occur. Therefore, the development was evaluated for traffic adequacy under ADQ-2022-013, using only the existing road network and those road improvements to be provided by the applicant. In addition, it appears likely that the alignment of the Purple Line will affect the boundaries of Parcels 6 and 7, which are to be retained by UMD. However, right-of-way (ROW) may be dedicated for Rossborough Lane and the Purple Lane at any time, in accordance with Section 24-107(c)(5), without the need for it to be delineated under this or a future PPS.
6. **Community Planning**—The 2014 *Plan Prince George’s 2035 Approved General Plan* (Plan 2035), and conformance with the sector plan, is evaluated as follows:

Plan 2035

The subject property is in the Innovation Corridor, as well as the UMD East Center, as designated by Plan 2035. Local Centers are focal points of concentrated residential development and limited commercial activity servicing the Established Communities (Plan 2035, page106). The

Innovation Corridor has the highest concentration of economic activity in the County's targeted industry clusters and has the greatest potential to catalyze future job growth, research, and innovation in the near to- mid-term (page 23).

The PPS aligns with the growth policy of Local Centers and the Innovation Corridor by concentrating residential and commercial development near existing economic activity and existing industry clusters.

Sector Plan

The sector plan recommends mixed-use residential land uses on the subject property (page 60). The development conforms to that land use.

The subject property is primarily in the Walkable Node character area of the sector plan, with a small portion of the site within the Walkable Node University character area. The Walkable Nodes consist of higher-density mixed-use buildings that accommodate retail, offices, row houses, and apartments, with emphasis on nonresidential land uses, particularly on the ground level. The land use and urban design policies of these areas are to develop a series of pedestrian-friendly, transit-oriented, mixed-use walkable nodes at appropriate locations along the Central US 1 Corridor (page 65); to establish a strong sense of place by ensuring the highest quality of development (page 67); and to create appropriate transitions between the nodes and existing residential neighborhoods (page 68).

Mixed use and multifamily buildings are consistent with other developments typically found in the Walkable Node and Walkable Node University character areas. The development should prioritize creating a walkable, pedestrian-friendly environment with a strong sense of place.

The sector plan requires a landmark feature at the southeast quadrant of US 1 and Campus Drive, in the Walkable Node University portion of the site. At the time of review of the detailed site plan (DSP), the application shall incorporate a landmark element. Mandatory shop frontage and zero-foot setbacks along US 1 are also required (page 230).

Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, the subject PPS conforms to the land use recommendations of the sector plan.

Sectional Map Amendment/Zoning

The 2010 *Approved Central US 1 Corridor Sectional Map Amendment* retained the subject property in the M-U-I and D-D-O Zones. The zoning permits multifamily, office, and retail uses.

On November 29, 2021, the Prince George's County District Council approved Prince George's County Council Resolution CR-136-2021, the Countywide Sectional Map Amendment, which reclassified the subject property from the M-U-I Zone to the LTO-E Zone effective April 1, 2022. However, this PPS is reviewed according to the prior M-U-I zoning.

Aviation

This PPS is located within APA-6. Pursuant to Section 27-548.38(a) of the prior Zoning Ordinance, for an individual property, aviation policy area regulations are the same as in the property's underlying zone, except as stated in Subdivision 3, Division 1, Part 10B of the Zoning Ordinance. Section 27-548.42, Height requirements, of the prior Zoning Ordinance, states that in APA-4 and APA-6, no building permit may be approved for a structure higher than 50 feet unless the applicant demonstrates compliance with Federal Aviation Regulations Part 77. Building height requirements will be evaluated with the site plan review.

7. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan, or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. An unapproved SWM concept plan (16969-2022-0) was submitted with this PPS for the portion of the subject property that is to be developed. The proposed plan shows the installation of a series of micro-bioretenment facilities and an underground stormwater storage facility to treat, detain, and release stormwater leaving the site.

An approved SWM concept plan will be required as part of the application at the time of DSP review. No further information is required at this time regarding SWM with this PPS. 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, satisfies the requirements of Section 24-130 of the prior Subdivision Regulations.

8. **Parks and Recreation**—This PPS was reviewed for conformance with the requirements and recommendations of the sector plan, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, the 2017 *Land Preservation, Parks and Recreation Plan for Prince George's County*, and Sections 24-134 and 24-135 of the prior Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreation and facilities.

The development aligns with the sector plan's intention to provide quality, safe, and convenient parks and recreational facilities within mixed-use developments providing respite and contributing to the desirability and livability of the community for current and future residents.

Park and recreation amenities serving the subject property include the Paint Branch Stream Valley Park I and II and Lakeland Park, which are within a quarter mile of the subject property. The parks are developed with basketball and tennis courts, the College Park Community Center, and ball fields. The Paint Branch Trail also serves this area.

Sections 24-134 and 24-135 relate to the mandatory dedication of parkland. These sections provide for the dedication of land, the payment of a fee-in-lieu, and/or the provision of recreational facilities as possible means of meeting the requirement. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC. Given the location of the property, conveyance of land would not be accepted for this project. The recreational guidelines for Prince George's County also set standards based on population. Based on the projected

population for the development, the typical recreational needs include outdoor sitting and eating areas, playgrounds, fitness areas, open play areas, and basketball and tennis courts.

Per Section 24-135, the Planning Board may approve the provision of recreational facilities, in place of parkland dedication. The developer has proposed to meet the requirement with private on-site recreational facilities. The current plan cites the provision of a courtyard, a fitness center, and a game room as private recreational facilities. The current design does not propose facilities which would meet all of the typical recreational needs identified above.

Private on-site recreation shall be used to meet the parkland dedication requirement. However, the private outdoor recreational facilities currently proposed are minimal and should include more opportunities for outdoor amenities for future residents and guests. Additional outdoor private recreation amenities should be proposed and reviewed at the time of the DSP.

Based on the preceding finding, the provision of mandatory dedication of parkland, Section 24-134, will be met through the provision of on-site private recreational facilities in accordance with Section 24-135(b) of the prior Subdivision Regulations.

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

MPOT and Sector Plan Right-of-Way

The subject site has frontage along US 1 (Baltimore Avenue), which is designated in the MPOT as a major collector roadway (MC-200). US 1 along the property's frontage is also designated as a master plan roadway in the sector plan with a recommended variable width ultimate ROW of 88-92 feet. Currently, US 1 along the property's frontage has a varying ROW width, extending from 30 feet from the centerline along the southern end to 66 feet from the centerline at the northern end. The PPS does not demonstrate adequate dedication along the property's entire US 1 frontage to facilitate the ultimate ROW recommendation as provided in the sector plan.

As previously noted, the subject PPS is for redevelopment of the north portion of the site to provide a mix of new residential and office uses. Through correspondence, the property owner, UMD, has objected to dedicating ROW from the parcels it plans to retain because it wants to retain custodianship of the public sidewalks along US 1, rather than turn them over to the Maryland State Highway Administration (SHA) which controls the roadway. The applicant also indicated that the dedication of ROW should be limited to the portion of the site which will be redeveloped, citing that the ultimate ROW along this portion of the site is already provided and is consistent with the master plan recommended ROW. The entire limits and extent of the property included in the PPS are subject to the provisions outlined in the Subdivision Regulations, which includes compliance with the master plan and sector plan recommendations. However, SHA is the ultimate arbiter of the improvements to its ROW, and there is an existing working relationship between SHA and UMD, where SHA controls the roadway of US 1, while UMD controls the sidewalks. SHA may therefore refuse to accept dedication of ROW, based on wanting UMD to retain maintenance of the sidewalks.

As a condition of approval, prior to signature approval of the PPS, the PPS shall be modified to include a minimum ROW dedication of 44 feet from the centerline of US 1 along the entire site frontage, consistent with the master plan recommendation, unless the applicant provides written correspondence from SHA refusing the dedication. Should such a letter be provided, prior to signature approval, the PPS shall still reflect ROW dedication to the existing curb line, as well as a sufficiently wide public use easement along Parcel B and Parcel 7's entire frontage on US 1, to accommodate the existing sidewalks and crosswalks. The public use easement shall be established to ensure continued public access to the site's US 1 pedestrian frontage improvements.

In addition, the site is bounded on the east side by Campus Drive, an 80-foot collector road (C-202). The PPS shows the property line to be approximately 40 feet from the centerline of Campus Drive. Therefore, it does not appear that any additional ROW is required along this roadway. However, the plans submitted for signature approval shall include appropriate dimensions to demonstrate that the required ROW is already provided.

MPOT and Sector Plan Pedestrian and Bicycle Facilities

The subject property fronts an MPOT-recommended master planned bicycle lane along US 1. SHA has constructed cycle tracks along portions of the US 1 roadway, and these are recommended along the property frontage.

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*.

The sector plan also recommends bicycle lanes along US 1, as an interim facility, until a cycle track is constructed. The following policies and strategies are provided for pedestrian and bicyclist facilities:

Policy 1: Improve bicycle, pedestrian, and vehicular accessibility throughout the internal street network and to US Route 1 and Rhode Island Avenue by filling in missing linkages and ensuring the internal network is bicycle and pedestrian friendly through appropriate design, including traffic calming techniques (page 135).

Policy 2: Implement a comprehensive wayfinding system to complement the street network and orient residents, visitors, students, and through traffic to the area (page 136).

Policy 2: Facilitate bicyclists along the entire corridor and through development so that bicycle routes are enhanced or established (page 141).

In addition, the sector plan includes design guidelines on pages 65, 260, and 264 regarding designated walkable nodes. The sector plans design elements and MPOT policy recommendations shall be detailed and evaluated in subsequent site plans. However, the PPS shows that adequate ROW is provided to support the sector plan and MPOT recommended pedestrian and bicycle facilities.

The above policies, strategies, and recommendations all support a multimodal community. Per the sector plan (pages 260 and 264), the frontage along US 1 should include a 12- to 18-foot-wide sidewalk where feasible, a 6.5-foot-wide cycle track, and a minimum 4.5-foot landscape strip, unless modified by the operating agency. Six-foot-wide sidewalks should be provided along side streets, unless modified by the operating agency.

In addition, the PPS shows cross-sections for existing private roadways, within the limits of the subdivision, that will be further improved as part of the development. The existing internal roadways include Testudo Way, Diamondback Drive, and Hotel Drive, and the PPS shows enough space along these rights-of-way to facilitate the MPOT recommended policies. As a condition of approval, the internal roadways shall be improved to the specifications provided in the PPS, unless a modification to the sector plan development standards is requested and approved, at the time of DSP.

Transportation Planning Review

The PPS includes multiple intersections through which the site traffic will disperse. With the approved Certificate of Adequacy (ADQ-2022-013) for this PPS, the new intersection of Testudo Way and Campus Drive was analyzed and found to be adequate as an unsignalized intersection. However, given the amount of traffic that is projected to pass through that intersection, the applicant should pursue signalization with SHA. Operationally, this will enhance traffic flow much better than an unsignalized intersection. The limited access to the site, along US 1, will conform to the goals of the sector plan access design standards and will minimize pedestrian and vehicular conflicts along US 1.

At the time of DSP, all pedestrian and bicycle facilities and amenities as described in the sector plan shall be shown on a pedestrian and bikeway facilities plan. The required amenities and facilities support the policies of the MPOT and the sector plan, the requirements of the Subdivision Regulations, and the “Transportation Review Guidelines – 2022 Supplement.”

Based on the findings presented above, multimodal transportation facilities will exist to serve the subdivision, as required under Subtitle 24, and will conform to the MPOT and the sector plan.

10. **Public Facilities**—This PPS was reviewed for conformance to the sector plan, in accordance with Section 24-121(a)(5). The sector plan contains a Public Facilities section (page 151) in Chapter 4 (Infrastructure Elements). The primary goal and vision of the section are:

Vision:

The Central US 1 Corridor is well-served by schools, fire, police, and emergency medical services, and libraries, contributing to a strong sense of place and community.

Goal:

Provide needed public facilities in locations that efficiently serve the population of the Central US 1 Corridor sector plan area.

The development will not impede achievement of any of the above-referenced goals. The analysis provided in approved ADQ-2022-013 illustrates that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the development. There are no police, fire and emergency medical service facilities, public schools, parks, or libraries proposed on the subject property.

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, however, none of its recommendations affect the subject site.

The 2018 Water and Sewer Plan placed this property in the Water and Sewer Category 3, “Community System.” Category 3 comprises all developed land (platted or built) on public water and sewer, and undeveloped land with a valid preliminary plan approved for public water and sewer. In addition, the property is within Tier 1 of the Sustainable Growth Act. Tier 1 includes those properties served by public sewerage systems. Adequate water and sewer systems exist to serve the subject property.

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

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

The standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. In addition, Section 24-128(b)(12) requires that all private streets have a 10-foot-wide PUE along at least one side of the ROW. The subject property fronts public streets US 1 and Campus Drive. The PPS also includes multiple internal private streets. The applicant did not propose any PUEs along the public or private streets and, therefore, requested a variation from these requirements.

Variation from Section 24-122(a) and Section 24-128(b)(12)

Section 24-113 of the prior Subdivision Regulations sets forth the required criteria for the approval of a variation 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;**

The granting of the variation will not be detrimental because utilities are currently in place to serve the subject property and surrounding properties. The subject site is currently developed and served by utilities. Utility easements were recorded in Liber 37039 folio 009 and are existing within the internal private streets on the subject site. Utilities also currently exist within the abutting public rights-of-way and provide continuity of service to this site and surrounding properties. Therefore, the granting of the variation will not be detrimental to the public safety, health, 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 request is based are unique to the site. The infill development is a public/private partnership with UMD, and utility easements have been previously established on the site to serve the existing and future development. Requiring additional PUEs would be redundant to those easements already in place.

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

The approval of a variation from Sections 24-122(a) and 24-128(b)(12) 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 request. There are no

other known laws, ordinances, or regulations that would be violated by this request.

- (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 overall site has been developed for decades and multiple existing utilities and easements traverse the site to provide wet and dry utilities. The site is also to be bisected by the future Purple Line metro rail, where existing Rossborough Drive is located. The existing development in the neighborhood and the location of the future Purple Line light rail through 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 the public and private streets would further impede future development envisioned by the sector plan and would serve no additional purpose, since utility locations have already been established. 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 Sections 24-122(a) and 24-128(b)(12), to exclude PUEs along the public and private streets, is approved.

12. **Historic**—The subject property is within the University of Maryland National Register Historic District (66-035) and contains two contributing properties, Ritchie Coliseum and Fraternity Row, and one documented property, the University of Maryland Central Heating Plant (66-035-09). One adjacent documented property, Harrison Laboratory (66-035-04), was demolished for the construction of the Hotel at the University of Maryland. The subject property is adjacent to the Old Town College Park Historic District (64-042-00) to the south, and to the Rossborough Inn Historic Site (66-035-02) to the west.

The sector plan contains goals and policies related to historic preservation and archeology. Policy 2 (page 201) states that archaeological investigations of undisturbed areas should be conducted prior to development. However, the area of proposed development has been previously disturbed by prior construction on the site. 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.

Policy 3 (page 201) states that the unique features of the Old Town College Park Historic District should be restored and preserved. Therefore, any DSPs that are adjacent to the Old Town College Park Historic District should be reviewed by the Historic Preservation Commission (HPC) for potential impacts to the historic district.

13. **Environmental**—The subject PPS was received on October 3, 2022. Environmental comments were provided in a SDRC meeting on October 14, 2022. The following applications and associated plans were previously reviewed for the subject site:

Development Review Case #	Associated Tree Conservation Plan or Natural Resources Inventory #	Authority	Status	Action Date	Resolution Number
N/A	NRI-027-08	Staff	Approved	5/25/2008	N/A
N/A	NRI-027-08-01	Staff	Approved	7/09/2014	N/A
N/A	NRI-027-08-02	Staff	Approved	4/11/2022	N/A
N/A	S-163-2022	Staff	Approved	9/13/2022	N/A
4-22034	N/A	Planning Board	Approved	2/16/2023	2023-17

Grandfathering

This project is not grandfathered with respect to the environmental regulations contained in the prior Subtitle 24 because it is for a new PPS.

Plan 2035

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

Sector Plan Conformance

The site falls within the UMD portion of the sector plan. The sector plan does not indicate any environmental issues associated with this property.

Countywide Green Infrastructure Plan Conformance

Although the northern portion of this property is mapped within both regulated and evaluation areas of the 2017 *Countywide Green Infrastructure Plan* of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green

Infrastructure Plan), this area is fully developed with no regulated environmental features or County regulated 100-year floodplain mapped on-site.

The site was entirely cleared, graded, and developed prior to the enactment of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO).

Environmental Review

Natural Resources Inventory/Existing Conditions

The site has an approved natural resources inventory plan (NRI-027-08-02), which correctly shows the existing conditions of the property. No specimen or historic trees are located on-site. No Champion trees are mapped on-site. This site is not associated with any regulated environmental features such as streams, wetlands, or associated buffers. No 100-year regulated County floodplain is mapped on-site. No primary management area, which is comprised of regulated environmental features, 100-year floodplain, and any adjacent steep slopes is mapped on-site. The site contains no existing woodlands and is fully developed with existing buildings, parking, and vehicular circulation.

Woodland Conservation

The site is exempt from the provisions of the WCO because the project is subject to the Maryland Forest Conservation Act and will be reviewed by the Maryland Department of Natural Resources (DNR). A standard letter of exemption (S-163-2022) from the WCO was issued for this site, which expires on September 13, 2024. Either an approved forest conservation plan or an exemption from the Maryland State Forest Conservation Act issued by DNR will be required to be submitted with all grading permits prior to their issuance. No additional information is required regarding woodland conservation.

Soils

The predominant soils found to occur, according to the United States Department of Agriculture Natural Resource Conservation Service Web Soil Survey, include Beltsville-Urban land complex (0-2 percent slopes), Urban land, Urban land-Sassafras complex (0-5 percent slopes), and Urban land-Woodstown complex (0-5 percent slopes).

The subsurface soils found in sections of the subject site have been contaminated by past uses and must be reviewed by the U. S. Environmental Protection Agency, hereon referenced as both USEPA and EPA.

The grading of the site will disturb a former landfill location (EPA Identification Paint Branch Landfill Area 1A). This subject landfill was used to dispose of fly ash from a former UMD coal burning steam plant, along with refuse, garbage, and other debris generated by the university. According to the Declaration of Notice of Use Restriction and Easement deed, recorded in Liber 27624 folio 288 in the Prince George's County Land Records, the Definitions Section 2 under Notice of Use Restriction states:

“...the groundwater located at or beneath the Landfill Area shall not be used as drinking water. In addition, certain activities, including but not limited to exaction, grading, dewatering, sheeting or shoring, which could result in undesirable exposures to the waste/contaminates previously disposed on the property or interfere with or adversely affect Landfill Areas (‘Prohibited Activities’) are expressly prohibited without the prior written approval of the Declarant [University of Maryland]. Activity to USEPA for approval may require the request person to obtain USEPA approval of any such work...”

Any corrective actions implemented at the site would be reviewed by the EPA during development of the site. It is worth noting that, in September 1991, the EPA issued a Corrective Action Permit (MDD98082872) to UMD. According to the EPA’s webpage, regarding hazardous waste cleanup at the university:

“The permit required UM to investigate whether releases occurred from various Solid Waste Management Units (SWMUs). UM conducted soil and groundwater investigations at the SWMUs. Areas identified with soil contamination were remediated as follows: (1) soil was removed from the Pesticides Wash and Diesel Fuel Tank Areas; and (2) a Diesel Fuel Tank was removed and replaced. EPA determined that other areas did not require remediation. Groundwater investigations showed some low level dioxin and methane in the three Paint Branch Landfills and the Metzert Road Landfill. EPA concluded that the low level dioxin and methane, coupled with the low risk of human exposure, would not pose a risk to human health and the environment under current conditions. Ground water underlying the University is not used for drinking water.”

See <https://www.epa.gov/hwcorrectiveactioncleanups/hazardous-waste-cleanup-university-maryland-college-park-maryland#Description> for details.

At the time of review of PPS 4-14009 for the Hotel at the University of Maryland, which is located immediately adjacent to the west of the subject property, correspondence from the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE) was obtained that also pertains to this site. In a letter dated October 29, 2014 (Haitham Hijazi, Director of DPIE to M-NCPPC, Development Review Division), it states that:

“Part of this site to be disturbed is covered by an EPA Permit for Corrective Action (hereinafter, the Permit) that mandates approval from the EPA before the commencement of certain activities, including the disturbance of the surface of land. Accordingly, to ensure the safety of the public and compliance with Federal regulations, DPIE’s approval of any rough grading activities that are subject to the Permit will be conditioned on the receipt of the approval from EPA from those activities.”

At the time of PPS 4-14009, no further action by the Planning Board was required, as found in Prince George's County Planning Board Resolution No. 14-142. It is similarly found with this PPS that no further action by the Board is required, since no work can proceed without EPA approval.

The site will require an approved site development grading erosion and sediment control plan. The Prince George's Soil Conservation District may add further conditions during its review, such as the conditions that were issued for the Hotel at the University of Maryland site development grading erosion and sediment control plan. That plan conditioned that a geotechnical study and report for the UMD site be provided. DPIE will require the applicant to remove any unsuitable fill from the site, unless they grant a waiver to allow it to remain. Prior to acceptance of a DSP, the applicant shall submit a geotechnical report which delineates the location and extent of all unstable fill within the limits of PPS 4-22034.

At the time of DSP review, the case will be referred to the Prince George's County Health Department, which may also generate further findings and conditions directly related to potential contaminated soils for the site.

Based on the foregoing findings, the PPS conforms to the relevant environmental policies of the sector plan and Green Infrastructure Plan, and the relevant environmental requirements of Subtitles 24 and 25.

14. **Urban Design**—The development will be subject to DSP approval.

Conformance with the Requirements of the prior Prince George's County Zoning Ordinance and the Sector Plan

In accordance with the sector plan, the D-D-O Zone standards replace the standards and regulations of the prior Zoning Ordinance. Wherever a conflict occurs between the sector plan and the Zoning Ordinance or the 2010 *Prince George's County Landscape Manual* (Landscape Manual), the standards of the overlay shall prevail. For development standards not covered by the sector plan, the Zoning Ordinance or Landscape Manual shall serve as the requirements.

The development of 285 multifamily dwelling units and 524,000 square feet of commercial development will be subject to DSP approval, at which time conformance with applicable D-D-O Zone standards will be evaluated.

The subject PPS is within APA-6 associated with the nearby College Park Airport and has a 50-foot building height limit. Conformance with the requirements of APA-6 in Section 27-548.42 will be evaluated at the time of DSP.

The site is within the Mandatory Shop Frontage area, with designated landmark features required in the northeast corner of the site. Additional information on those requirements can be found on pages 253–255 of the Architectural Elements Section in the sector plan. In addition, since the subject site is within the Walkable Node Character Area, all new construction projects are

required to seek a minimum Leadership in Energy and Environmental Design (LEED) Silver Certification. Conformance with these standards will be reviewed at the time of DSP.

Conformance with the 2010 Prince George's County Landscape Manual

On page 226, the sector plan states that the provisions of the Landscape Manual regarding alternative compliance, commercial and industrial landscape strip requirements, parking lot requirements, and buffering incompatible uses do not apply within the D-D-O Zone. All other standards and regulations of the Landscape Manual apply, as necessary. Conformance with the remaining landscaping requirements will be determined at the time of DSP.

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 will require a grading permit. Properties zoned M-U-I are required to provide a minimum of 10 percent of the gross tract area to be covered by tree canopy. The subject site is 42.91 acres in size and the required tree canopy coverage is 4.29 acres. Compliance with this requirement will be evaluated at time of DSP.

15. **City of College Park**—On January 31, 2023, the City of College Park City Council voted unanimously to support approval of the subject PPS and the applicant's requested variation from the prior Subdivision Regulations, to eliminate the requirement to provide PUEs. As provided in the City's letter of support (Schum to Shapiro, dated February 7, 2023 and incorporated by reference herein), the City recommended approval of the PPS, subject to seven conditions. The conditions are listed below in **bold** text and responses to each are given in plain text.

1. Prior to approval of the final plat:

- a. **Provide a note on the plat that Diamondback Drive north of Testudo Way shall be extinguished coincident with the plat for the development of parcel 3.**

Diamondback Drive, north of Testudo Way, is the location of an existing right-in/right-out access to Campus Drive, which was originally required to be constructed to provide access to the Hotel at the University of Maryland, under PPS 4-14009. The access is covered by an access and utility easement recorded in Prince George's County Land Records in Liber 37039 folio 009. According to the applicant's traffic study submitted with the current PPS, the existing right-in/right-out access is to be replaced with a full movement intersection connecting to Campus Drive, south of the original access location. The new intersection will be located at the east end of an extension of Testudo Way, past Diamondback Drive; the street extension will be located on private street Parcel A.

Given that the existing right-in/right-out access and associated easement were required to provide access to the hotel, any closure of this access must be tied to a determination that adequate access will still be provided to the hotel. In this case, adequate access will still be provided because of the new intersection provided. The applicant provided information that they intend to provide the new intersection concurrently with development of Parcel 3; however, at this time, no detailed phasing information has been provided and any phasing planned by the applicant could be subject to change. Closure of the existing access must, therefore, be tied to provision of the new access, rather than development on any particular parcel. Therefore, the existing access shall not be removed, until construction of the intersection of Testudo Way and Campus Drive is either complete or planned to be completed concurrently with removal of the existing access.

Because the PPS and traffic study propose closure of the existing access, a note shall be placed on the PPS drawing stating that the existing access is to be removed, prior to or concurrently with completion of the new intersection.

Conditions 1(c) and 13 of this resolution address the access relocation, in lieu of the City's recommended condition. Note that a condition should not be imposed requiring a note on the final plat which, in turn, establishes a requirement to be met with a future final plat. Once the parcels are platted, they may not be required to be platted again.

b. Revise the plat to show the Purple Line future non-exclusive easement and make the necessary adjustments to parcels 6 and 7.

As stated in Finding 5 of this resolution, ROW may be dedicated for the Purple Line at any time, in accordance with Section 24-107(c)(5) of the prior Subdivision Regulations, without the need for it to be delineated under the current or a future PPS. The same would be true for any easements associated with the Purple Line. It is not known when the ROW easement for the Purple Line will be finalized, and it may not be finalized until after the applicant is seeking final plats for Parcels 6 and 7. A future undescribed and unrecorded easement, not under review by the Planning Board, should not be shown on a final plat. However, if the easement or ROW is finalized prior to the platting of Parcels 6 and 7, any existing recorded ROW shall be shown, but is not necessary to condition. Adjustments to the boundaries of Parcels 6 and 7 will not be needed, if the Purple Line utilizes only an easement because any easement would overlap the property boundaries, not create new boundaries.

c. Revise the street sections on the PPS to correspond with the easements shown on the plat.

With this PPS, the access and utility easement over Diamondback Drive, Testudo Way, and Hotel Drive (recorded in Liber 37039 folio 009) is to be overlaid with a private street parcel (Parcel B) that has the same ROW widths as the easement. The widths of the private street ROWs are shown on the PPS drawing. The City raised a concern that sidewalks and landscaping along these streets may fall outside of the easement (and now parcel); however, the ROW widths shown will be sufficient to implement the master plan policies, as discussed in Finding 9 of this resolution. In addition, because the streets and development parcels will be private, additional space for sidewalks and landscaping may be gained by adjusting the parcel boundaries to provide more ROW to the private street parcels; this may be done at the time of DSP, if needed. As discussed in Finding 9, and as required by Condition 8, the streets be improved to the specifications provided in the street sections shown on the PPS (if they are not improved to those standards already), and conformance be shown on the DSP. The applicant may, however, request a departure from the D-D-O design standards, at the time of DSP for the street sections.

The applicant does, at this time, need to demonstrate that the street sections on the PPS have ROW widths matching the ROW widths shown on the plan drawing. In lieu of the City's recommended condition, Condition 1(d) of this resolution requires that the street sections on the PPS be dimensioned to show their total ROW width, and to demonstrate that the ROW widths on the street sections match the ROW widths shown on the plan drawing. This will need to be accomplished prior to signature approval of the PPS, rather than during the final plat approval process.

d. Consider extending Hotel Drive to parcel 5 to eliminate the flag lot on parcel 5 and facilitate access to parcels 4 and 5.

Parcel 5 is not a flag lot, due to it meeting minimum frontage requirements along Campus Drive. However, extending Hotel Drive to the east of Diamondback Drive could be considered, in order to facilitate access to Parcels 4, 5, and 6, and extend the streetscape of Hotel Drive. Any consideration of an extension should take into account which of these parcels will need access to Hotel Drive; if only Parcel 5 needs access, it may be better to leave the parcel in its current configuration. The area where Hotel Drive could be extended also contains parking for Parcel 5, and so the consideration must account for whether the parcel's parking requirements will still be met. All consideration should take place at the time of DSP. If necessary, a third private street parcel could be approved for the extension of Hotel Drive, if for any reason the extension cannot be part of Parcel B. Condition 18(a) of this resolution requires the applicant to consider an extension of Hotel Drive, at the time of DSP.

2. **Prior to approval of the first building permit for Parcel 3, but only if approved by the operating agency, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:**

- a. **Traffic signal at the Testudo Way extended/Campus Drive intersection.**

The applicant's traffic study found that the new intersection of Testudo Way and Campus Drive would operate adequately as an unsignalized intersection, as discussed in Finding 9 of this resolution and in the approved Certificate of Adequacy (ADQ-2022-013). Nevertheless, the applicant's study did propose signalization as an operational enhancement for traffic to flow better than an unsignalized intersection. The applicant should pursue signalization with SHA. However, this recommendation does not rise to the level of a condition because it is not needed for traffic adequacy (approved under the ADQ and not the PPS) and, therefore, no basis exists within the Subdivision Regulations for conditioning that a signal be provided. At the Planning Board hearing on February 16, 2023, the applicant reaffirmed their intention to install the signal, and City representatives stated that they would seek a separate agreement with the applicant to have it installed. However, ultimate authority to require or permit a signal will rest with SHA.

3. **Prior to the issuance of any building permit involving land disturbance in the restricted area (Parcels 1-6), as shown in the Declaration of Notice of Use Restriction and Easement, the Applicant shall demonstrate compliance with the most recently executed Declaration and/or Covenant with the EPA and provide evidence of same to the City.**

The restricted area, where subsurface soils have been contaminated, is discussed in Finding 13 of this resolution. The Declaration of Notice of Use Restriction, recorded in Liber 27624 folio 288, was required by the EPA as part of UMD's receipt of a corrective action permit. The provisions within the Declaration do not include notification of other agencies. Because the Declaration is solely an EPA requirement, M-NCPPC would not have any basis for requiring that evidence of compliance with the Declaration be provided to the City, nor even any basis for requiring that such evidence be provided to M-NCPPC. For that reason, this resolution does not have a condition requiring evidence of compliance. The applicant may, however, provide evidence of compliance, in the interest of keeping the City up to date on the requirements they must meet in order to develop the site, on their own accord. At the Planning Board hearing on February 16, 2023, City representatives stated that they would seek a separate agreement with the applicant to obtain this information.

4. **Prior to issuance of a building permit for a building or structure higher than 50 feet, the Applicant shall demonstrate compliance with Federal Aviation Regulations (FAR) Part 77.**

As discussed in Finding 6 of this resolution, compliance with FAR Part 77 is required for structures higher than 50 feet in APA-6, according to Section 27.548.42 of the prior Zoning Ordinance. Because the Zoning Ordinance already contains this requirement, it does not need to be conditioned. Building heights will be evaluated for conformance at the time of DSP.

5. If applicable, development plans on Parcel 7 shall be reviewed by the Historic Preservation Commission and the Old Town Local Advisory Committee.

As discussed in Finding 6 of this resolution, any DSPs adjacent to the Old Town College Park Historic District should be reviewed by HPC. This recommendation does not rise to the level of a recommended condition, however, because HPC's authority to review site plans adjacent to historic districts is provided by the Zoning Ordinance and does not need to be specifically conditioned. Any application adjacent to the Old Town College Park Historic District which is referred to the HPC would also be referred to the Old Town Local Advisory Committee (LAC) by Historic Preservation staff, so that the LAC can provide recommendations to the HPC.

6. At the time of DSP:

- a. Provide an off-site bicycle and pedestrian facilities plan that illustrates the location, limits, specifications, and details for the following improvements, consistent with the BPIS cost cap, with the priority to be determined at the time of DSP:**
 - i. Design and construct the Norwich Road Side Path, identified as Project 2. in the Discovery District Multi-Use Trail Transit Access Plan, July 2022 subject to approval by the University of Maryland.**
 - ii. Construct 5-foot-wide sidewalks on the south side of Norwich Road between Rhode Island Avenue and 4811 Norwich Road within City of College Park right-of-way.**
 - iii. Install bus shelters along US1 and the north side of Campus Drive, if feasible, up to the cost-cap.**

Because this PPS is subject to the adequacy standards of the current Subdivision Regulations, there is an approved certificate of adequacy for this case, ADQ-2022-013, which has already conditioned different improvements from the ones recommended by the City, in order to meet the bicycle and pedestrian impact statement (BPIS) requirements of the Subdivision Regulations. However, the applicant has indicated that they support the improvements recommended by the City, and so they may seek an amended ADQ, in order to revise the BPIS proposal. Staff will evaluate the proposed improvements of a revised BPIS, once

an application for an amended ADQ has been accepted, to determine if the improvements are supportable.

b. Provide a pedestrian and vehicular circulation plan.

A pedestrian and bikeway facilities plan is required, at the time of DSP, via recommended Condition 10 of this resolution. In addition, for DSPs submitted within the D-D-O Zone, the sector plan requires that a circulation plan showing all proposed pedestrian and bicycle facilities, transit service, impacted roadways, and intersections be provided (page 203). Such a plan would show proposed vehicular circulation. For these reasons, an additional condition requiring a circulation plan is not needed.

c. Provide street sections for all proposed roadway construction.

For DSPs submitted within the D-D-O Zone, the sector plan requires that street and streetscape sections be provided (page 203). At the time of DSP, the internal private roadways shall be designed in accordance with the cross-sections and specifications shown on this PPS, as stated in Condition 8 of this resolution. The best way for the applicant to demonstrate compliance with Condition 8 would be to submit street sections with the DSP, which can be matched to the ones shown on the PPS. For these reasons, an additional condition requiring street sections is not needed.

d. Provide parking hubs for micro-mobility vehicles.

There are no code requirements or master plan recommendations which would support a need for parking hubs for micro-mobility vehicles. City staff stated that this condition was recommended, in order to support the dockless bikeshare program used by the City and UMD. However, parking requirements for such dockless bikes are not evaluated and should not be conditioned with a PPS. There is therefore no basis for requiring the applicant to provide this feature, as part of a PPS condition. Such a feature could be a consideration for the DSP, however, which is the appropriate application to reflect site details and would allow processing of future amendments, should the programmatic needs change. Condition 18(b) of this resolution requires the applicant to consider providing parking hubs for micro-mobility vehicles, at the time of DSP.

e. Provide a development and roadway phasing plan.

The applicant advised that the development will be phased. However, the applicant's future plans could change, in a way they do not foresee at this time. For this reason, the City's condition is included in this resolution (Condition 19); however, the provision of such a phasing plan is conditional on the development being phased.

7. **For the development of Parcels 1-4, prior to Planning Board approval of each separate DSP, the applicant shall execute a Declaration of Covenants and Agreement with the City, or an amendment, that includes, at a minimum, the following provisions and may include additional provisions depending upon the DSP proposed:**
- a. **PILOT to City if the property becomes tax exempt.**
 - b. **For any multifamily residential building - unitary management, and condominium conversion requirements if such a conversion is legally permitted.**
 - c. **If determined by the City to be necessary, reasonable restrictions related to construction staging and hours of construction. Construction activities not to block access to City streets without the permission of the City.**
 - d. **If feasible, provision of an outdoor public art feature, which can be matched by City funds (up to \$15,000).**
 - e. **Achieve LEED Silver Certification or equivalent. Prior to the issuance of a building permit for each building, submit a LEED or equivalent scorecard demonstrating compliance with this certification. Register with LEED or equivalent and show proof of registration. Provide proof of certification within (14) months of the completion of construction and the issuance of the final Use and Occupancy permit for the portion of the Project included in the DSP.**
 - f. **Acknowledgement of responsibility for maintenance of pedestrian light fixtures, landscaping, and sidewalks.**

The above condition requested by the City is for a private agreement, not pertinent to the requirements of the Zoning Ordinance and Subdivision Regulations for the review of a PPS; therefore, there is no basis for this condition being made a requirement of the PPS. The applicant and the City will, however, enter into such an agreement on their own accord.

With regard to the applicant's responsibility for maintenance of pedestrian light fixtures, landscaping, and sidewalks, the applicant and the applicant's heirs, successors, and/or assignees should be responsible for all maintenance of these features on private property. The applicant would have to maintain these features by default, unless some other entity, public or private, agreed to maintain them on their behalf. It is not necessary to condition the applicant to maintain their own property with this PPS.


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.

* * * * *

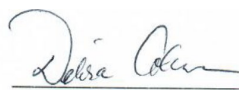
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, and Shapiro voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, February 16, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of March 2023.

Peter A. Shapiro
Chairman


By Jessica Jones
Planning Board Administrator

PAS:JJ:EDC:rpg


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel
Dated 3/7/23