

PGCPB No. 2024-085

File No. 4-22049

R E S O L U T I O N

WHEREAS, Penn Place II Owner, LLC is the owner of a 4.91-acre parcel of land known as Parcel 117, said property being in the 6th Election District of Prince George's County, Maryland, and being zoned Residential, Multifamily-20 (RMF 20); and

WHEREAS, on March 25, 2024, Penn Place II Owner LLC filed an application for approval of a Preliminary Plan of Subdivision for one parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-22049 for Penn Place 2 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 at a public hearing on July 25, 2024; and

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

WHEREAS, pursuant to Section 24-1900 *et seq.* of the Prince George's County Subdivision Regulations, subdivision applications submitted and accepted as complete before April 1, 2024, may be reviewed and decided in accordance with the Subdivision Regulations, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022 (prior Subdivision Regulations); and

WHEREAS, the applicant has complied with the procedures required in order to proceed with development under the prior Subdivision Regulations contained in Section 24-1904 of the Prince George's County 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 prior Subdivision Regulations; and

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

WHEREAS, at the July 25, 2024 public hearing, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-013-2024; APPROVED a Variance to Section 25-122(b)(1)(G) for Specimen Trees ST-1, ST-2, ST-3, and ST-7; DISAPPROVED a Variance to Section 25-122(b)(1)(G) for Specimen Tree ST-4; and APPROVED Preliminary Plan of Subdivision 4-22049 for one parcel, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised as follows:
 - a. Revise General Note 25 to provide the approval date of the stormwater management concept plan.
 - b. Label the existing northernmost curb cut along Penn Crossing Drive to be removed.
 - c. Label the proposed easement adjacent to Penn Crossing Drive, covering the proposed storm drain structure and pipe.
2. Prior to approval, the final plat of subdivision shall include dedication of a 10-foot-wide public utility easement along the abutting public rights-of-way, as delineated on the approved preliminary plan of subdivision.
3. In accordance with Section 24-135(b) of the prior Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall allocate appropriate and developable areas for, and provide, adequate on-site recreational facilities in accordance with the standards outlined in the Prince George's County *Park and Recreation Facilities Guidelines*.
4. 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 Prince George's County *Park and Recreation Facilities Guidelines*, with the review of the detailed site plan (DSP). Timing for construction shall also be determined at the time of DSP.
5. Prior to submission of the final plat of subdivision for any residential lot/parcel, the applicant, and the applicant's heirs, successors, and/or assignees shall submit an executed private recreational facilities agreement (RFA) 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 Book and page of the RFA shall be noted on the final plat, prior to plat recordation.
6. 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.
7. Development of this site shall be in conformance with Stormwater Management Concept Plan 36919-2024-SDC, and any subsequent revisions.
8. In conformance with the recommendations of the 2009 *Approved Countywide Master Plan of Transportation* and the 2009 *Approved Marlboro Pike Sector Plan*, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following facilities, and shall show these improvements on the detailed site plan, prior to its acceptance:

- a. Shared-lane markings (sharrows) and a “Bicycles May Use Full Lane” signage assembly along the site’s frontage of Penn Crossing Drive, unless modified by the operating agency with written correspondence.
 - b. A minimum 5-foot-wide sidewalk along both sides of all new internal driveways.
 - c. A minimum 5-foot-wide sidewalk, connecting the sidewalk along the site’s frontage of Penn Crossing Drive to the building entrances.
 - d. Standard crosswalks and associated Americans with Disabilities Act (ADA) curb ramps at all vehicular access points and to the building entrances.
 - e. Short- and long-term bicycle parking spaces. Short-term bicycle racks (inverted-style or a similar model that provides two points of contact for a parked bicycle) shall be located no more than 50 feet from the building entrance.
9. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-013-2024). The following note shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-013-2024 or most recent revision), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George’s County Planning Department.”
10. Prior to the issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the final plat of subdivision:

“This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 Tree Conservation Plan, when approved.”
11. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan shall be revised, as follows, to meet all requirements of Subtitle 25:
 - a. Correct the general tree conservation plan Note 1 to remove the “PP” from the plan number.
 - b. Specimen Tree ST-4 shall be shown as retained, and the limits of disturbance adjusted accordingly, unless modified at the time of detailed site plan.

- c. The location of specimen trees shall be consistent with the approved natural resources inventory (NRI) plan.
 - d. Add the standard Subtitle 25 variance note under the Specimen Tree Table or Woodland Conservation Worksheet identifying with specificity the variance decision of the Prince George's County Planning Board:

“NOTE: This plan is in accordance with the following variance(s) from the strict requirements of Subtitle 25 approved by the Planning Board on (ADD DATE) for the removal of the following specified specimen trees (Section 25-122(b)(1)(G): (Identify the specific trees to be removed).”
 - e. Correct the proposed woodland conservation area along the southern end of the site, to conform to the design requirements as established in Subtitle 25-122(b)(1).
 - f. Add a woodland conservation area near the southwest property corner with Penn Crossing Drive, contiguous to the 0.14-acre woodland preservation area shown on TCP1-017-2022 for the Penn Place I development.
- 12. Prior to signature approval of the preliminary plan of subdivision, the approval letter associated with Stormwater Management Concept Plan 36919-2024-SDC shall be submitted.
 - 13. As part of the detailed site plan review, the applicant shall look for opportunities to reduce the amount of impervious surfaces. Measures that could be taken include removing extraneous drive aisles not adjacent to required parking, requesting a departure from the number of required parking spaces, utilizing structured parking, or proposing on street parking.
 - 14. Prior to signature approval of the preliminary plan of subdivision, the natural resources inventory plan (NRI) shall be approved.

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 applicable 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 includes a 4.91-acre parcel, known in the Maryland State Department of Assessments and Taxation as Parcel 117, as shown on Tax Map 81, Grids A2 and B2. It is noted that a part of the property was dedicated to a public right-of-way (ROW) in August 1989; however, such conveyances are exempt from filing a preliminary plan of subdivision (PPS) and final plat. The property is now described by deed recorded in the Prince George's County Land Records in Book 48358 page 438, dated December 8, 2022. The property is in the Residential, Multifamily-20 (RMF-20) Zone. However, this PPS was submitted for review under the Prince George's County Zoning Ordinance and Prince George's County

Subdivision Regulations in effect prior to April 1, 2022 (“prior Zoning Ordinance” and “prior Subdivision Regulations”), pursuant to Section 24-1903(a) of the Subdivision Regulations. Under the prior Zoning Ordinance, the property was within the prior Multifamily Medium Density Residential (R-18) Zone. The site is subject to the 2009 *Approved Marlboro Pike Sector Plan and Sectional Map Amendment* (sector plan).

The subject PPS qualifies for review under the prior Zoning Ordinance and prior Subdivision Regulations because it meets the requirements of Section 24-1904 of the current Subdivision Regulations. In accordance with Section 24-1904(a), a pre-application conference was held on February 13, 2023. In accordance with Section 24-1904(b), the applicant provided a statement of justification (SOJ) explaining why they were requesting to use the prior regulations. In accordance with Section 24-1904(c) of the Subdivision Regulations, this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2022-042.

The subject property is to be subdivided into one parcel for development of 58 multifamily dwelling units. A PPS is required, pursuant to Section 24-107 of the prior Subdivision Regulations because the proposed development consists of more than one single-family dwelling unit. The property is currently vacant and fronts on Marlboro Pike and Penn Crossing Drive, from which one driveway will serve the site.

The applicant filed a request for a variance to Section 25-122(b)(1)(G) of the 2010 Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance (WCO), for the removal of five specimen trees (ST-1 through ST-4 and ST-7). This request is discussed further in the Environmental finding.

3. **Setting**—The subject site is within Planning Area 75A and is located in the southeast quadrant of the intersection of Marlboro Pike and Penn Crossing Drive.

The subject property is bounded to the north by Marlboro Pike, with institutional use in the Residential, Single-Family-65 (RSF-65) Zone (formerly zoned One-Family Detached Residential) beyond. The property is bounded to the northwest by Penn Crossing Drive, with single-family attached dwelling units in the Residential, Multifamily-48 (RMF-48) Zone (formerly zoned Mixed Use-Transportation Oriented (M-X-T)) and a vacant property in the RMF-20 (formerly zoned R-18) located beyond. The property is bounded to the west by a vacant property in the RMF-48 Zone (formerly zoned M-X-T), known as Parcel 21, which is the subject of Conceptual Site Plan CSP-87128-02, titled Penn Place 1, approved in April 2023 for mixed use development. To the south, the property is bounded by commercial development in the Commercial, General and Office Zone (formerly zoned Commercial Shopping Center (C-S-C)). The property is bounded to the east by multifamily residential development in the RMF-20 Zone (formerly zoned R-18). The property is bounded to the northeast by a place of worship and industrial use in the RMF-20 Zone (formerly zoned R-18).

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

	EXISTING	EVALUATED
Zone	RMF-20	R-18
Use(s)	Vacant	Multifamily Residential
Acreage	4.91	4.91
Lots	0	0
Parcels	1	1
Dwelling Units	0	58
Gross Floor Area	0	0
Subtitle 25 Variance	No	Yes, Section 25-122(b)(1)(G)
Subtitle 24 Variation	No	No

The subject PPS was accepted for review on March 25, 2024. Pursuant to Section 24-119(d)(2) of the prior Subdivision Regulations, this case was referred to the Subdivision and Development Review Committee (SDRC), which held a meeting on April 12, 2024, where comments were provided to the applicant. Revised plans were received on June 13, 2024 and June 20, 2024, which were used for the analysis contained herein.

5. **Previous Approvals**—Pre-Preliminary Plan of Subdivision P-06012 was filed in April 2006 for evaluation of development of the subject property as a place of worship. However, no further action was taken for this development proposal.
6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the sector plan are evaluated, as follows:

Plan 2035

Plan 2035 places this subject site in the Established Communities Growth Policy Area. Plan 2035 classifies existing residential neighborhoods and commercial areas served by public water and sewer outside of the Regional Transit Districts and Local Centers, as Established Communities. Established Communities are most appropriate for “context-sensitive infill and low- to medium-density development” (page 20). Plan 2035 recommends “maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met” (page 20).

Sector Plan

The sector plan’s vision is to create neighborhoods that are livable and offer desirable and attractive housing choices which blend old and new communities (page 13). The sector plan recommends a residential medium-high use on the subject property. Residential medium-high is described as detached and attached dwelling units with associated areas at densities between 8 and 20 dwelling units per acre (page 24). The proposed multifamily residential use conforms

with the recommended land use of the sector plan and proposes approximately 11.8 dwelling units per acre, which is within the recommended density range.

The sector plan contains several policies and strategies related to development along Marlboro Pike. However, these were not found to be applicable to the subject property since the property has less than 40 feet of frontage on Marlboro Pike. In addition, the site, and the proposed development front onto Penn Crossing Drive instead of Marlboro Pike. Other sector plan recommended goals, objectives, and guidelines applicable to the subject property are discussed throughout this resolution.

Pursuant to Section 24-121(a)(5), of the prior Subdivision Regulations, a PPS and final plat shall conform to the area sector plan, including maps and text, unless the 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 District Council has not imposed the recommended zoning. Pursuant to Section 24-121(a)(5), the PPS was found to conform to the sector plan, as evaluated throughout this resolution.

Zoning

The 2009 *Approved Marlboro Pike Sectional Map Amendment* reclassified the subject property from the C-S-C Zone to the R-18 Zone. On November 29, 2021, the Prince George's County District Council approved CR-136-2021, the Countywide Sectional Map Amendment (CMA), which reclassified the subject property from the R-18 Zone to the RMF-20 Zone, effective April 1, 2022. However, this PPS was reviewed pursuant to the prior R-18 zoning.

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 municipality having approval authority. An approved Site Development Concept Plan (36919-2024-SDC) was submitted with this PPS. However, the associated approval letter was not provided. According to the approved SWM concept plan, one submerged gravel wetland is to provide stormwater retention and attenuation on-site before discharging into the public storm drain system.

Development of the site, in conformance with SWM concept approval and any subsequent revisions, will ensure that no on-site or downstream flooding occurs. Therefore, this PPS satisfies 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 the sector plan, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, the 2022 *Land Preservation, Parks and Recreation Plan for Prince George's County*, and Sections 24-134 and 24-135 of the prior Subdivision Regulations, as they pertain to public parks and recreation and facilities.

The Prince George's County Department of Parks and Recreation manages and maintains Maryland-National Capital Park and Planning Commission (M-NCPPC)-owned park and recreation amenities in the vicinity and serving the subject property. These include Suitland Park, located approximately 0.85 mile south from the subject property, and which contains baseball/

softball fields, a picnic area, a playfield, a playground, and basketball courts; the Park Berkshire Park, located approximately 0.93 mile southeast from the subject property, and which contains baseball/softball fields, multi-purpose fields, a picnic area, a playfield, a playground, tennis courts, and basketball courts; and the Dupont Heights Park, located approximately 0.85 mile northwest from the subject property, and which contains two half-basketball courts, a picnic area, a playfield, a playground, and two outdoor tennis courts.

The sector plan includes the following goals for parks and recreation:

- **Marlboro Pike is a safe and inviting atmosphere for community residents.**
- **Encourage active and healthy lifestyles for residents in the community.**

The PPS is in alignment with the sector plan's goals and has no impact on the master plan park and open space recommendations.

Sections 24-134 and 24-135 of the prior Subdivision Regulations, which relate to mandatory dedication of parkland, provide for the dedication of land, the payment of a fee in-lieu, and/or the provision of private on-site recreational facilities to serve the active recreational needs of residential development. The Prince George's County Planning Board may approve the payment of fee in-lieu of parkland dedication when it finds that dedication of parkland is unsuitable or impractical due to size, topography, drainage, physical characteristics, or similar reasons, or if adequate open space has been acquired and is available to serve the subdivision. Based on the permissible density of 12 dwelling units per acre of development, 10 percent of the net residential lot area, 0.49 acre, could be required to be dedicated to M-NCPPC for public parks. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC, which could be expanded by dedication of additional parkland. In addition, given the density, the provision of on-site recreational facilities for future residents to meet the mandatory dedication of parkland requirement is approved. Such facilities shall be superior, or equivalent, to those that would have been provided under mandatory dedication of parkland. Based upon the conceptual site layout depicted on the SWM concept plan and information provided by the applicant, the list of proposed recreational facilities conceptually includes outdoor canopy/shade structures, benches, a dog trail, and an amenity building offering a multipurpose room with kitchenette, coworking/flex office space, bathrooms, and a fitness room. While most of the proposed recreational facilities are acceptable, coworking/flex office space is not considered a recreational facility. The details and the cost estimates for the on-site facilities will be evaluated at the time of the detailed site plan (DSP). Appropriate conditions are included to ensure that the recreational facilities will be properly developed, provided at the appropriate state of development, and maintained to the benefit of future residents.

Based on the preceding findings, the provision of mandatory dedication of parkland shall be met through on-site recreation facilities, in accordance with Section 24-135(a) of the prior Subdivision Regulations.

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

Master Plan Right-of-Way

The subject property has frontage on Penn Crossing Drive along the northwestern property boundary. Neither the MPOT nor the sector plan contain any ROW recommendations for this portion of Penn Crossing Drive. The PPS displays Penn Crossing Drive as an existing 60-foot-wide ROW, and no additional dedication is required.

The subject property also has frontage along Marlboro Pike (C-410) along the northern boundary. The MPOT and the sector plan recommend this portion of Marlboro Pike as a four-lane collector roadway with an ultimate ROW width of 80–100 feet. The PPS identifies the existing ROW width of Marlboro Pike along the property’s frontage to be 53 feet from road centerline, which conforms to the requirements of the sector plan.

The PPS conforms to the requirements of the MPOT and the sector plan and will be adequate to serve the additional traffic generated by the project.

Master Plan Pedestrian and Bike Facilities

The sector plan recommends the following master-planned facilities:

- Planned Bicycle Lane: Marlboro Pike

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 (MPOT, page 10):

Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

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

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

In addition, the site is subject to the sector plan, which contains a Pedestrian Amenities and Streetscape Enhancements section. Policies 1 and 3 related to Penn Crossing Drive are copied below (page 56):

Policy 1: Implement a main street streetscape at select locations throughout the corridor to encourage residents to walk, shop and recreate along Marlboro Pike.

Policy 3: Enhance and provide pedestrian-friendly amenities throughout the corridor that assist in transforming the corridor into a safe and comfortable environment.

The subject property's frontage along Marlboro Pike has an existing bicycle lane. The sector plan prioritizes bicycle and pedestrian movements along side streets such as Penn Crossing Drive, on which the PPS provides both shared-lane markings (sharrows) and a "Bicycles May Use Full Lane" signage assembly. The applicant justified replacing the bicycle lane with sharrows and signage, stating that a bicycle lane could interfere with existing street parking along Penn Crossing Drive. The applicant's proposal for sharrows and bicycle signage along the site's frontage of Penn Crossing Drive is approved. These facilities shall be shown on a bicycle and pedestrian facilities plan and the DSP.

Currently, there are sidewalks along the subject property's frontage, along Penn Crossing Drive and Marlboro Pike. The SWM concept plan shows internal sidewalks that provide pedestrian movement throughout the site. These sidewalks shall be shown on the bicycle and pedestrian facilities plan, as well as the DSP. Crosswalks and Americans with Disabilities Act (ADA) compliant curb ramps shall be shown at all locations where sidewalk facilities are interrupted by a driveway, to facilitate pedestrian movement throughout the site. Short-term bicycle parking shall also be provided near the building entrances, in accordance with American Association of State Highway and Transportation Officials (AASHTO) guidelines. Short-term bicycle racks (inverted U-style or a similar model that provides two points of contact for a parked bicycle) shall be located no more than 50 feet from building entrances. The location of long-term bicycle parking spaces will be determined at the time of DSP.

In addition, it is noted that the SWM concept plan shows a sidewalk connection between the subject property and the adjacent parcel to the southwest (Parcel 21). This adjacent parcel was the subject of CSP-87128-02, which was approved for development of 168 multifamily dwelling units and 767 square feet of commercial space on Parcel 21. As such, this pedestrian connection, which will allow greater pedestrian movement both within the site and to the adjacent development, is supported. This pedestrian point of cross-access to the adjacent property will be evaluated further at subsequent stages of development.

As required in the companion ADQ-2022-042, prior to acceptance of a DSP, the applicant shall submit a bicycle and pedestrian facilities plan, along with the site plan, which is in conformance with the above-listed sector plan policies. The quantity of bicycle parking spaces will be determined with the DSP. The required and provided facilities and amenities meet the intent and goals of the sector plan.

Site Access and On-site Circulation

The PPS shows one full movement vehicle access point along Penn Crossing Drive. The internal vehicular circulation is confined only to the site, thereby ensuring that no cut-through traffic will take place. While a point of pedestrian cross-access is shown on conceptual site plans between the

subject site and adjacent Parcel 21, vehicular cross-access is not included at this location. Vehicular access and circulation for the proposed development is found to be sufficient. Currently, there are two curb cuts along the property's frontage to Penn Crossing Drive. The PPS utilizes one of the existing curb cuts. The other curb cut, located further to the north along the property frontage, shall be labeled on the PPS to be removed.

Based on the preceding findings, the vehicular, pedestrian, and bicycle transportation facilities will serve the proposed subdivision, meet the findings required of Subtitles 24 and 27, and conform to the sector plan and MPOT.

10. **Public Facilities**—This PPS was reviewed for conformance to the sector plan, in accordance with Section 24-121(a)(5) and 24-122(b) of the prior Subdivision Regulations. The sector plan includes the following goals for the provision of public facilities (pages 79–86):

- **Improve and maintain public facilities throughout the Marlboro Pike sector plan area, and ensure that they are modern, attractive and well located to serve existing communities and future development.**
- **Ensure that public schools are well-maintained in order to adequately service surrounding communities and future development.**
- **Encourage library patronage within the sector plan area.**
- **Marlboro Pike is a safe and inviting atmosphere for community residents.**
- **Ensure that the Marlboro Pike sector plan area is adequately equipped with the appropriate infrastructure.**

The project will not impede achievement of the above-referenced policies. This PPS is subject to ADQ-2022-042, which established that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the proposed development. There are no master-planned police, fire and emergency medical service facilities, public schools, parks, or libraries recommended on the subject property.

The subject property is located in Planning Area 75A, known as Suitland-District Heights and Vicinity. The 2024–2029 Fiscal Year Approved Capital Improvement Program (CIP) budget identifies two new construction projects proposed for this planning area:

- **Homeless Shelter at 603 Addison Road South (13.31.0003)**
- **Regional Health and Human Services Center at 8800 Hampton Mall Drive (23.70.0001).**

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades, renovations to existing facilities, and construction of new facilities; however, none of its recommendations 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 PPS or final plat approval. The 2018 *Water and Sewer Plan* placed this property in 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.

11. **Public Utility Easement**—In accordance with Section 24-122(a) of the prior Subdivision Regulations, 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 ROWs. The subject property has frontage on Penn Crossing Drive to the northwest and on Marlboro Pike to the north. The PPS correctly shows the required PUE along the two public ROWs.

12. **Historic**—The sector plan contains goals and policies related to historic preservation (pages 45 through 48). However, these are not specific to the subject 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. The subject property does not contain, and is not adjacent to, any designated Prince George’s County historic sites or resources.
13. **Environmental**—The following applications and associated plans were previously reviewed for the subject site:

Development Review Case Number	Associated Tree Conservation Plan or Natural Resource Inventory	Authority	Status	Action Date	Resolution Number
4-91089	TCPI-059-91	N/A	Withdrawn	N/A	N/A
N/A	E-039-97	Staff	Approved	5/20/1997	N/A
N/A	E-039-97-01	Staff	Approved	4/12/2001	N/A
N/A	NRI-055-06	Staff	Approved	5/8/2006	N/A
N/A	NRI-133-2021	Staff	Approved	10/6/2021	N/A
4-22049	TCP1-013-2024	Planning Board	Approved	7/25/2024	2024-085

Grandfathering

The project is subject to the environmental regulations and woodland conservation requirements contained in Subtitle 25 and prior Subtitles 24 and 27 because the application is for a new PPS.

Prince George's Plan 2035

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

Site Description

The site is located in the southeast quadrant of the intersection of Marlboro Pike and Penn Crossing Drive. The property does not have frontage on any roadway classified as arterial or higher, and Marlboro Pike is designated as a historic roadway. A review of the approved Natural Resources Inventory Plan NRI-133-2021 for the subject property indicates that the site is fully wooded, with steep slopes and a wetland occurring on the property. Potential forest interior dwelling species habitat is not mapped on-site. According to the sensitive species layer on PGAtlas, as provided by the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species on or in the vicinity of this property.

ENVIRONMENTAL CONFORMANCE WITH APPLICABLE PLANS

Sector Plan

The sector plan contains environmentally related policies and strategies that are applicable to the subject PPS. The specific language from the sector plan is shown in **BOLD** and the plain text provides comments on plan conformance.

Policy: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the Marlboro Pike sector plan (page 74).

Strategies:

- **Through the development review process, limit development in the Evaluation Areas and Network Gaps in order to preserve the integrity of the green infrastructure network.**
- **Through the development review process, target priority areas for development and allow for alternative designs that maximize the utilization of properties.**
- **Avoid, minimize, and mitigate environmental impacts associated with new development in the corridor.**
- **Minimize impervious surfaces by reducing parking lot sizes and using on-street parking.**

Although this site is located in a developed area with zoning for high-density residential development, this PPS does not address the third and fourth bulleted strategies of this policy. Specifically, woodland conservation is limited to the edges of the site, where development is not practical.

Although a development layout is provided on the companion TCP1, these details are not a part of the PPS, and are conceptual only. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site. Based on the TCP1, the site is proposed to be almost fully impacted with impervious surfaces as the parking for the multifamily units is not proposed as structured parking and, as a result, requires an expansive parking area. To minimize impervious surfaces and increase on-site woodland conservation, as part of the DSP review, the applicant shall look for opportunities to reduce the amount of impervious surfaces. This could include removing extraneous drive aisles not adjacent to required parking, requesting a departure from the number of required parking spaces, utilizing structured parking, or proposing on-street parking. An appropriate condition of approval is included to ensure conformance of the PPS to this policy.

Policy: Preserve and expand the green infrastructure network and promote community connectivity with the environment (page 74).

Strategies:

- **Preserve viewsheds and allow for greenway trail access to natural areas, allowing the community to retain a connection with green infrastructure and park facilities.**
- **Preserve forested riparian buffers surrounding Oxon Run and Ritchie Branch as well as other natural environmental resources, including parkland, as part of the overall Prince George's County green infrastructure network.**
- **Acquire unprotected lands within the green infrastructure network for preservation.**

The proposed development does not meet this policy. While the on-site portion of Oxon Run has been modified, due to prior development in the area, on-site woodland conservation is limited to undevelopable property edges, does not meet the design requirements of Section 25-122(b)(1)(J) that all woodland conservation areas shall be a minimum of 50 feet in width, and does not provide a continuation for woodland conservation areas approved with CSP-87128-02 to the southwest. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site. Appropriate conditions of approval are included to ensure conformance of the PPS to this policy.

Policy: Increase the vegetated cover throughout the sector plan area (page 74).

Strategies:

- **Require canopy trees and landscaping in all new development and redevelopment projects.**
- **Increase vegetation in existing properties with landscape enhancements.**

This development proposal results in an overall decrease in vegetated cover in the sector plan area. While woodland would be cleared with any proposed development, the proposed multifamily use requires large parking areas for residents and visitors. This limits the greenspace to the edges of the site where development is not practical. Although a development layout is provided on the companion TCP1, these details are not a part of the PPS, and are conceptual only. The location and specifications of the plantings for the 2010 *Prince George's County Landscape Manual* (Landscape Manual) requirements will be evaluated at the time of DSP review. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site. Conformance to tree canopy coverage and Landscape Manual requirements, along with increased woodland conservation, will bring this development closer to meeting this policy.

Policy: Ensure that future development and redevelopment along the corridor incorporates innovative and sustainable solutions to stormwater management and utilize the most current water quality standards (page 74).

Strategies:

- **Upgrade existing stormwater management facilities within the sector plan area to meet the Maryland Department of the Environment's (MDE) most recent standards.**
- **When designing stormwater management for new development or redevelopment sites, include additional treatment for drainage from existing neighboring developments that do not meet current stormwater management standards.**
- **Restore natural drainage patterns to preserve watershed hydrology and wetland functions during the land development process.**
- **Build stormwater management facilities to address any untreated areas offsite that are included within the drainage area of a development site.**
- **Identify areas for retrofit projects in collaboration with the Department of Environmental Resources and the Department of Public Works and Transportation.**

The site has not been previously developed; therefore, there are no existing SWM facilities. However, the PPS shows the replacement of an existing forested wetland, with an engineered submerged gravel wetland SWM facility. As detailed above, development of the site, in conformance with SWM concept approval and any subsequent revisions, will ensure that no on-site or downstream flooding occurs.

Although a development layout is provided on the companion TCP1, these details are not a part of the PPS, and are conceptual only. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site in, accordance with the design requirements of Section 25-122(b)(1)(J) that all woodland conservation areas shall be a minimum of 50 feet in width. Appropriate conditions of approval are included to ensure conformance of the PPS to this policy.

Policy: Utilize best management practices and environmentally sensitive design techniques throughout the study area (page 75).

Strategies:

- **Decrease impervious surfaces to reduce volumes of runoff in stormwater management facilities and to accommodate smaller size structures in lieu of larger single treatment areas.**
- **Incorporate infiltration devices, rain barrels, pervious paving, green roof technologies, and recycling of stormwater for irrigation where feasible. Figures V-3a, b, and c, alongside, illustrate examples of stormwater management best practices.**
- **Include rain gardens, or bioretention facilities, in site development projects as a part of the landscaping.**

The proposed development has received approval of a SWM concept plan, which was submitted with this PPS. Based on the approved SWM concept plan provided with the PPS, the existing wetland will be replaced with a submerged gravel wetland. The use of infiltration devices, such as bioretention, to recycle stormwater should be part of the SWM review. The SWM concept plan proposes micro-bioretention and permeable pavement as infiltration facilities. This proposed development increases impervious surfaces and provides a connection to a public storm drain. Although a development layout is provided on the companion TCP1, these details are not a part of the PPS, and are conceptual only. With subsequent development applications, the applicant shall explore alternative site layouts to reduce impervious surfaces and environmentally sensitive design techniques to manage stormwater. Appropriate conditions of approval are included to ensure conformance of the PPS to this sector plan policy.

2017 Green Infrastructure Plan

The 2017 Countywide Green Infrastructure Plan (Green Infrastructure Plan) was approved on March 17, 2017, with the adoption of the 2017 *Approved Prince George's County Resource*

Conservation Plan: A Countywide Functional Master Plan (CR-11-2017). According to the Green Infrastructure Plan, this site contains regulated and evaluation areas.

The following policies and strategies are applicable to the subject PPS. The text in **bold** is the text from the master plan and the plain text provides comments on plan conformance.

POLICY 1: Preserve, enhance, and restore the green infrastructure network and its ecological functions while supporting the desired development pattern of Plan Prince George's 2035.

Strategies

- 1.1 **Ensure that areas of connectivity and ecological functions are maintained, restored, and/or established by:**
- a. **Using the designated green infrastructure network as a guide to decision-making and using it as an amenity in the site design and development review processes.**
 - b. **Protecting plant, fish, and wildlife habitats and maximizing the retention and/or restoration of the ecological potential of the landscape by prioritizing healthy, connected ecosystems for conservation.**
 - c. **Protecting existing resources when constructing stormwater management features and when providing mitigation for impacts.**
 - d. **Recognizing the ecosystem services provided by diverse land uses, such as woodlands, wetlands, meadows, urban forests, farms and grasslands within the green infrastructure network and work toward maintaining or restoring connections between these.**

The majority of the subject property is within designated evaluation areas, with regulated areas along the eastern portion of the site. Due to past development to the north, the regulated areas containing Oxon Run have been modified from what is mapped on PGAtlas. Based on the approved NRI-133-2021, the property features one isolated wetland in the northeast corner of the site, which is within the regulated area of the green infrastructure network. The property is within the Oxon Run Branch of the Middle Potomac River watershed and is not within a Tier II catchment area. The PPS includes impacting the entire wetland and replacing it with an engineered SWM facility. This impact to the REF is evaluated in the Environmental Review section of this finding.

Tree preservation is depicted along the southernmost edge of the site, which does not meet the design requirements of Section 25-122(b)(1)(J) that all woodland conservation areas shall be a minimum of 50 feet in width. Due to proposed

utility and stormdrain connections, any tree preservation shown along the road frontage is not approved.

Although a development layout is provided on the companion TCP1, these details are not a part of the PPS, and are conceptual only. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site. Appropriate conditions of approval are included to ensure conformance of the PPS to this policy.

1.2 Ensure that Sensitive Species Project Review Areas and Special Conservation Areas (SCAs), and the critical ecological systems supporting them, are preserved, enhanced, connected, restored, and protected.

a. Identify critical ecological systems and ensure they are preserved and/or protected during the site design and development review processes.

Sensitive species habitat was not identified on this site, and the property is not in a special conservation area. SWM was reviewed by the Prince George's County Department of Permitting, Inspections, and Enforcement (DPIE), and sediment and erosion control measures will be reviewed by the Prince George's County's Soil Conservation District (PGSCD).

POLICY 2: Support implementation of the 2017 GI Plan throughout the planning process.

2.4 Identify Network Gaps when reviewing land development applications and determine the best method to bridge the gap: preservation of existing forests, vegetation, and/or landscape features, and/ or planting of a new corridor with reforestation, landscaping and/or street trees.

This site is located between MD 4 (Pennsylvania Avenue) and Marlboro Pike, in a primarily developed area. Residential development is located to the immediate north, with commercial development to the south. While this site is mapped within the regulated and evaluation areas, a survey of the site has indicated that the site features no regulated areas within the Green Infrastructure Plan. As this site is not contiguous to any other tracts of woodland, no network gaps are identified.

2.5 Continue to require mitigation during the development review process for impacts to regulated environmental features, with preference given to locations on-site, within the same watershed as the development creating the impact, and within the green infrastructure network.

Mitigation, if any, for removal of the isolated wetland will be determined by the Maryland Department of the Environment (MDE), Non-tidal Wetlands Division, during their review of the permit for disturbance to the isolated wetlands and its associated buffer.

2.6 Strategically locate off-site mitigation to restore, enhance and/or protect the green infrastructure network and protect existing resources while providing mitigation.

Any required off-site mitigation for the protection of the green infrastructure network will be determined by MDE at the time of the permit review for the disturbance to the wetland and its associated buffer. Off-site mitigation for woodland conservation is reviewed at time of grading permit.

Section 25-122(a)(6) of the County Code provides guidance for the off-site mitigation locations. The considerations for off-site locations are as follows: within the same eight-digit sub-watershed, within the same watershed, within the same river basin, within the same growth policy tier, or within Prince George's County.

The PPS proposes to fully develop the site, with impacts proposed to the regulated areas for SWM and utilities. A Type I Tree Conservation Plan (TCP1-013-2024) was provided with this PPS, and it shows that the required woodland conservation requirement will be met through on-site woodland preservation and off-site credits. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site, to address the environmental policies and strategies of the sector plan on pages 69 through 75.

POLICY 3: Ensure public expenditures for staffing, programs, and infrastructure support the implementation of the 2017 GI Plan.

3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.

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

This PPS is for the development of a single parcel and does not involve new roads, bridges, or trails. No fragmentation of REF by transportation systems is included with this PPS.

- b. Locate trail systems outside the regulated environmental features and their buffers to the fullest extent possible. Where trails must be**

located within a regulated buffer, they must be designed to minimize clearing and grading and to use low impact surfaces.

No new trails are included with this PPS.

POLICY 4: Provide the necessary tools for implementation of the 2017 GI Plan.

- 4.2 Continue to require the placement of conservation easements over areas of regulated environmental features, preserved or planted forests, appropriate portions of land contributing to Special Conservation Areas, and other lands containing sensitive features.**

On-site woodland conservation shall be placed in woodland and wildlife habitat conservation easements prior to the certification of the subsequent DSP and associated Type 2 tree conservation plan (TCP2). The site does not contain primary management areas (PMA) and does not require a conservation easement. This property is not associated with a special conservation area or other lands containing sensitive features.

POLICY 5: Improve water quality through stream restoration, stormwater management, water resource protection, and strategic conservation of natural lands.

Strategies

- 5.8 Limit the placement of stormwater structures within the boundaries of regulated environmental features and their buffers to outfall pipes or other features that cannot be located elsewhere.**

As noted, this PPS replaces the existing isolated nontidal wetland on the subject site with a SWM facility. This impact to the REF is evaluated in the Environmental Review section of this finding.

- 5.9 Prioritize the preservation and replanting of vegetation along streams and wetlands to create and expand forested stream buffers to improve water quality.**

As the result of the redesign of the site to propose woodland conservation that meets the 50-foot-wide design requirements of Section 25-122(b)(1)(J) conditioned herein, the on-site woodland conservation shall be placed in woodland and wildlife habitat conservation easements prior to certification of the subsequent DSP and associated TCP2. The site does not contain PMA and will not require conservation easements. This property is not associated with a special conservation area or other lands containing sensitive features.

POLICY 7: Preserve, enhance, connect, restore, and preserve forest and tree canopy coverage.

General Strategies for Increasing Forest and Tree Canopy Coverage

7.1 Continue to maximize on-site woodland conservation and limit the use of off-site banking and the use of fee-in-lieu.

This site is fully wooded. This PPS provides on-site preservation and off-site credits. The use of fee in-lieu is not included. Redesign of the woodland conservation to meet the 50-foot-wide design requirements of Section 25-122(b)(1)(J), and reduction in the amount of impervious surfaces, will result in conformance with Policy 7. Appropriate conditions of approval have been included to achieve this conformance.

7.2 Protect, restore, and require the use of native plants. Prioritize the use of species with higher ecological values and plant species that are adaptable to climate change.

The PPS retains a portion of the existing woodland and provide the remainder of woodland conservation requirements in off-site credits. No afforestation or reforestation is included with this PPS.

7.4 Ensure that trees that are preserved or planted are provided appropriate soils and adequate canopy and root space to continue growth and reach maturity. Where appropriate, ensure that soil treatments and/ or amendments are used.

Retention of existing woodlands and planting of native species on-site is required by both the Prince George's County Environmental Technical Manual (ETM) and the Landscape Manual; and can count toward the tree canopy coverage requirement for the development. The location and specifications of the plantings for tree canopy coverage requirements will be evaluated at the time of DSP review.

Forest Canopy Strategies

7.12 Discourage the creation of new forest edges by requiring edge treatments such as the planting of shade trees in areas where new forest edges are proposed to reduce the growth of invasive plants.

Clearing of woodland is included with the subject PPS, with a woodland conservation threshold of 20 percent or 0.98 acre. The woodland conservation requirement is to be met with on-site woodland preservation of 0.21 acre and off-site credits totaling 2.20 acres. Woodland conservation is to be designed to minimize fragmentation and reinforce new forest edges.

7.13 Continue to prioritize the protection and maintenance of connected, closed

canopy forests during the development review process, especially in areas where FIDS habitat is present or within Sensitive Species Project Review Areas.

This site does not contain the potential for forest interior dwelling species and is not in a sensitive species project review area. Woodland conservation is designed to be connected and to minimize fragmentation.

Tree Canopy Strategies

- 7.18 Ensure that new, more compact developments contain an appropriate percentage of green and open spaces that serve multiple functions such as reducing urban temperatures, providing open space, and stormwater management.**

The planting of native species on-site is required by both the ETM and the Landscape Manual and can count toward the tree canopy coverage requirement for the development. Tree canopy coverage will be evaluated with the DSP. Woodland conservation is located on the southern portion of site. Green space is encouraged to serve multiple ecological functions.

ENVIRONMENTAL REVIEW

Existing Conditions/Natural Resources Inventory

The site has an approved NRI-133-2021, which shows the existing conditions of the property. A total of seven specimen trees have been identified on-site or within the immediate vicinity of the site's boundary. The TCP1 does not show the locations of specimen trees in the same locations as shown on the approved NRI plan.

The site does contain REF, which includes an on-site wetland. The forest stand delineation indicates that there is one forest stand, which was given a high rating for preservation and reforestation. The site has 4.36 acres of net tract woodland area. Areas of steep slopes are scattered across the site.

A revision to the NRI was submitted by the applicant proposing to remove the PMA designation from the isolated wetland. The revision to the NRI shall be approved before the signature approval of the PPS.

Woodland Conservation

This property is subject to the provisions of the WCO because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. TCP1-013-2024 was submitted with the PPS.

According to the worksheet shown on the TCP1, the site is 4.91 acres in the prior R-18 Zone, of which 4.36 acres is existing woodlands. The site has a total woodland conservation threshold (WCT) of 0.98 acre, or 20 percent of the net tract area, as tabulated. The TCP1 shows a total

woodland conservation requirement of 2.41 acres, based on the clearing of 3.96 acres of woodland. The worksheet shows that this requirement is to be met by providing 0.21 acre of on-site woodland preservation and 2.20 acres of off-site woodland conservation credits. On-site woodland preservation of 0.21 acre amounts to only 21.4 percent of the WCT of 0.98 acre, and 8.7 percent of the total woodland conservation requirement of 2.41 acres. The proposed development design maximizes the developable area of the site, including the removal of the isolated wetland.

Per the NRI, the on-site woodland is identified as high priority for preservation and reforestation, which should be further considered for this site. The 0.21-acre area of woodland preservation proposed along the southern end of the site shall be expanded to meet the design requirements as established in Subtitle 25-122(b)(1) of the County Code that all woodland conservation areas shall be a minimum of 50 feet in width. In addition, woodlands shall be reforested near the southwest property corner with Penn Crossing Drive, contiguous to the 0.14-acre woodland preservation area shown on TCP1-017-2022 for the Penn Place I development to meet the priorities of Section 25-121(b)(1)(C) for contiguous wooded areas. This will connect woodland conservation areas located on adjacent properties and ensure higher quality of woodlands and wildlife habitat.

Specimen Trees

Tree conservation plans are required to meet all the requirements of Subtitle 25, Division 2, which includes the preservation of specimen trees. Section 25-122(b)(1)(G) of the County Code requires that “Specimen trees, champion trees, and trees that are part of a historic site, or are associated with a historic structure, shall be preserved. The design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone, in keeping with the tree’s condition, and the species’ ability to survive construction, as provided in the [Environmental] Technical Manual.” Every effort should be made to preserve the trees in place, considering the different species’ ability to withstand construction disturbance (refer to the Construction Tolerance Chart in the ETM for guidance on each species’ ability to tolerate root zone disturbances).

If, after careful consideration has been given to the preservation of the specimen trees, there remains a need to remove any of the specimen trees, a variance from Section 25-122(b)(1)(G) is required. Applicants can request a variance from the provisions of Division 2 of the WCO, provided all the required findings in Section 25-119(d) can be met. An application for a variance must be accompanied by a letter of justification (LOJ) stating the reasons for the variance request and how the request meets each of the required findings.

The site contains six specimen trees, with ratings of good (ST-1, ST-5, and ST-6), fair (ST-4 and ST-7), and poor (ST-2 and ST-3). Specimen Tree ST-5, rated as being in good condition, is located off-site to the south of the property. The applicant proposed to remove ST-1 through ST-4 and ST-7, and significantly impact ST-5 and ST-6, for the development of the multifamily dwellings and infrastructure.

Review of Subtitle 25 Variance Request

A Subtitle 25 variance application and a LOJ in support of a variance was received on

June 18, 2024. Supplemental information was received on July 23, 2024, in support of the variance for ST-1 and ST-7.

Section 25-119(d)(1) of the WCO contains six required findings to be made before a variance can be granted. The submitted LOJ addressed the required findings for the specimen trees proposed to be removed. Details specific to individual specimen trees have also been provided in the following chart.

Schedule Summary for Specimen Trees Evaluated for Removal

ST #	COMMON NAME	DBH (in inches)	CONDITION	DISPOSITION
1	Southern Red Oak	30	Good	Approve removal
2	American Beech	35	Poor	Approve removal
3	Willow Oak	35	Poor	Approve removal
4	White Oak	34	Fair	Disapprove removal
7	White Oak	31	Fair	Approve removal

A variance from Section 25-122(b)(1)(G) of the County Code was requested for the clearing of five specimen trees on-site. The property is proposed to be developed with multifamily buildings. Section 25-122(a)(1) requires that “woodland conservation shall be designed as stated in this Division unless a variance is approved by the approving authority for the associated case.”

The text below in **BOLD**, labeled A-F, are the six criteria for variance listed in Section 25-119(d)(1). The plain text provides responses to the criteria:

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

The property is generally rectangular in nature with a portion that extends out to the north. An isolated wetland is located in the northeastern corner of the site. The site is generally flat, sloping downhill to the north, with steep slopes located along the edges of the site and road frontage. Specimen trees are generally located along the eastern portion of the site, with Specimen Tree ST-6 as an outlier in the northwest portion. To access the site, grading is required. However, the shape and topography of the site do not make it unique. In addition, no specimen trees are being removed for site access, so the required grading to meet site access does not provide sufficient justification for the removal of specimen trees. The variance LOJ highlights the grading required for site access along the western site boundary, yet the only specimen tree present along the western site boundary is ST-6, which is shown as retained. No specimen trees are located within the area needed for site access.

The proposed use for residential development is a significant and reasonable use for the subject site, but it can be accomplished elsewhere on-site without additional variances or disturbance to REF. Of the six specimen trees on-site, the applicant proposed to remove five. Requiring the applicant to retain all specimen trees on the site would unduly restrict the area of the site available for development, to the extent that it would cause the

applicant an unwarranted hardship. However, alternative layouts could potentially save some of the specimen trees. Most on-site specimen trees are located along the property edges. An alternative site layout, with reforestation along the eastern and southern edges, could allow the applicant to provide more on-site woodland preservation, retain more specimen trees, and create a greenspace buffer to enhance the quality of life for future residents.

A detailed analysis of each specimen tree requested for removal follows.

Specimen Tree 1

Specimen Tree 1 (ST-1) is a 30-inch diameter at breast height (dbh) Red Oak in good condition. This tree is located due south of the wetlands on-site and is proposed to be removed for grading for a unit and drive aisle. Red oak trees have a good construction tolerance but can be impacted by damage to the roots and climate. This tree is in good condition. This tree is located in close proximity to the proposed submerged gravel wetland, which is depicted on the approved SWM concept plan to treat stormwater on-site. Grading associated with the construction of this required facility, as well as the installation of drainage pipes needed to convey off-site stormwater to the facility, prevent the retention of this tree. The removal of this tree is, therefore, approved.

Specimen Tree 2

Specimen Tree 2 (ST-2) is a 35-inch (dbh) Beech in poor condition. This tree is located fairly central to the site and is proposed to be removed for a unit and drive aisle. Beech trees have poor construction tolerances, are easily physically damaged, and can become stressed by pests and changes in climate. Given that this tree is in poor condition with poor construction tolerances, and is located centrally to the site, removal is approved. Requiring retention of ST-2 would unduly restrict the developable area on-site resulting in an unwarranted hardship to the applicant.

Specimen Tree 3

Specimen Tree 3 (ST-3) is a 35-inch (dbh) Willow Oak in poor condition. This tree is located due east of Specimen Tree ST-2 on the eastern property line. Half of the tree's critical root zone is located on the subject property and half is on the east-abutting property. ST-3 is to be removed for a drive aisle. Willow oak trees have medium to good construction tolerances, depending on the condition of the tree. Both changes and climate and impacts to the roots can cause significant stress to Willow oaks. As the critical root zone for this tree is located roughly half on-site, significant impacts to the root zone are proposed to implement the proposed drive aisle. If a reforestation area was proposed and extended to create a connection to the proposed 0.21-acre tree preservation area, ST-3 may also be able to be saved. However, given that this tree is in poor condition with medium construction tolerances, and more centrally located to the site, the removal of this tree is approved. As with ST-2, retention of ST-3 would unduly restrict the developable area of the subject site, given its relatively central location.

Specimen Tree 4

Specimen Tree 4 (ST-4) is a 34-inch (dbh) White Oak in fair condition. This tree is located towards the southern end of the site. White oaks have medium to good construction tolerances depending on the condition of the tree. Changes to climate and impacts to the roots are the primary concern for this species. This tree is proposed to be removed for the establishment of sidewalks and drive aisles. Given that this tree is in fair condition it is safe to assume a medium construction tolerance, although each individual tree is different. This tree is located in proximity to the only proposed preservation area on-site, which currently does not meet the minimum 50-foot width requirements as established in Section 25-122(b)(1)(J). Once this preservation area is expanded to the correct width, then this tree will be located mostly in the preservation area. Given the potential of root zone impacts, special care should be given to ST-4 to protect the roots. As this specimen tree can be retained using the appropriate design requirements for woodland conservation, the removal of ST-4 is disapproved. There are no special conditions specific to the subject property that would cause the applicant an unwarranted hardship, if this tree is required to be retained.

Specimen Tree 7

Specimen Tree 7 is a 31-inch (dbh) White Oak in fair condition. This tree is located due south of the wetland on-site and due east of ST-1. This tree is proposed to be removed for drive aisle and grading. White oaks have medium to good construction tolerances, depending on the condition of the tree. Changes to climate and impacts to the roots are the primary concern for this species. Given that this tree is in fair condition, it is safe to assume that this tree has a medium construction tolerance. ST-7 is located at the southern end of the site near the wetlands, which are being removed for construction of a submerged gravel wetland facility. Grading associated with the construction of this required SWM facility, as well as the installation of drainage pipes needed to convey off-site stormwater to the facility, prevent the retention of this tree. The removal of this tree is, therefore, approved.

In addition to the LOJ provided by the applicant on June 18, 2024, the supplemental information received on July 23, 2024 noted that the grading required to construct the submerged gravel wetland will impact the critical root zone of ST-1 and ST-7 and prevent their retention. If the existing wetland were not modified and the submerged gravel wetland were to be relocated, retention of these trees may be feasible. However, the approved SWM concept plan determined that SWM was best served by placing the submerged gravel wetland in the same location as the existing wetland. To construct this facility and the infrastructure associated with it, the trees will be impacted and cannot be preserved. This is a special condition peculiar to the property which would cause unwarranted hardship, if a variance were not granted.

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

Partial approval of a variance for removal of the specimen trees is necessary to ensure that the applicant is afforded the same considerations provided to owners of other properties that encounter similar conditions and in similar locations on a site. Other than ST-2, the trees that are proposed for removal are located towards the edges of the property. Also, the condition of the trees in question does not guarantee removal. Bringing trees in fair condition to the wooded edge may cause a rapid decline in health. The trees on-site range from poor to good condition, and trees of each condition are requested for removal, not just trees in poor condition. The submitted LOJ also indicates that mitigation plantings will be provided. However, no plantings are being proposed for woodland conservation credit, and only isolated landscaping trees are proposed as part of the required landscaping. The value of individual landscape trees cannot directly be compared to existing mature trees.

However, 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 are 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. Based on the location and species of the specimen trees proposed for removal, retaining ST-1 and ST-7 and avoiding disturbance to the critical root zone of these trees would have a considerable impact on the development, as it would require a redesign of the submerged gravel wetland and further constrain the developability of the property. If similar trees were encountered on other sites, they would be evaluated under the same criteria. With respect to ST-2, if retention of this tree were required, it would deprive the applicant of rights commonly enjoyed by others in similar areas. As noted above, ST-2 is centrally located on the property, in poor condition, and typically this species has a poor construction tolerance.

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

Not granting the variance with respect to ST-4 would not prevent the project from being developed in a functional and efficient manner. As mentioned in the discussion above, this specimen tree exists along the edge of the property. The provision of additional on-site preservation area would ensure survival of this tree. Granting the variance for ST-4 would, therefore, confer a special privilege that would be denied to other applicants. If other properties encounter trees in similar locations on a site, the same considerations would be provided during the review of the required variance application.

Granting the variance request for ST-1 and ST-7 would prevent the project from being developed, in accordance with the approved site development concept plan, and would further impact the ability to develop the site in a functional and efficient manner. This is not a special privilege that would be denied to other applicants. The circumstances

presented in this instance are unique and, if similar unique circumstances were encountered on another site, they would be given the same considerations during the review of the required variance application.

With respect to ST-2 and ST-3, granting the variance will not confer on the applicant a special privilege that would be denied to other applicants. These trees are located more centrally on the subject property and are in poor condition. Particularly with respect to ST-2, requiring its retention would prevent the project from being developed in a functional and efficient manner, given its central location.

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

The removal of the trees is a result of their location on the property and the limitations on site design, and is not the result of actions by the applicant. The removal of the five specimen trees was requested to achieve the applicant's proposed development and associated infrastructure. Within the applicant's variance request there is a mention of previous development on-site. Through looking at past applications and the existing aerial imagery, staff could not confirm this past development. This reference to prior development being part of the circumstance, as a reason for removal, is not supported.

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

The request to remove the specimen trees does not arise from a condition relating to land or building use, either permitted or nonconforming on a neighboring property.

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

The removal of the five specimen trees alone will not result in a marked degradation of water quality. Not granting the variance, with respect to ST-1 and ST-7, will adversely affect water quality. The applicant is required to meet current SWM requirements on-site, and is proposing to replace a wetland with a SWM facility. The applicant states that, by providing this feature, it will enhance water quality and provide additional plantings. Specimen Trees ST-1 and ST-7 are in close proximity to the wetland feature. Granting the variance to approve the removal of these trees for grading of drive aisles would, by extension, allow the applicant to develop up to the wetland buffer. This further limits the potential to retain the REF, by reducing woodland available for preservation around the wetland on-site. SWM requirements for the proposed development were evaluated by DPIE as part of SWM concept plan review. DPIE provided comments to staff that the proposed location for the SWM facility is the most suitable location and supports the replacement of the wetland with a SWM facility.

Granting this variance request will not violate state water quality standards nor cause measurable degradation in water quality. Additional information regarding the proposed SWM facility is provided in the Stormwater Management finding. Requirements

regarding SWM are reviewed and approved by DPIE. Sediment and erosion control measures for this site will be subject to the requirements of the Prince George's County Soil Conservation District. Both SWM and sediment and erosion control requirements are to be met, in conformance with state and local laws, to ensure that the quality of water leaving the site meets state standards. State standards are set to ensure that no degradation occurs. As noted above, retention of the existing wetland area may have allowed ST-1 and ST-7 to be preserved. However, approval of the SWM concept plan to locate the proposed submerged gravel wetland where the existing wetland is located requires grading and other infrastructure, which prevents the retention of these trees. State water quality standards will be enhanced by installation of this SWM facility. Therefore, removal of ST-1 and ST-7 will not degrade water quality.

The applicant proposed to remove ST-1 though ST-4 and ST-7 to provide adequate site access, access to public utility, SWM, and site development. After evaluating the applicant's request, removal of ST-1, ST-2, ST-3, and ST-7 is approved. ST-4 is not approved for removal with this PPS, but may be evaluated further with the subsequent DSP.

Regulated Environmental Features (REF)

This site contains REF 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 REF includes wetlands, wetland buffers, and steep slopes.

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

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

Impact 1

With this PPS, one impact to REF, an isolated nontidal wetland, was proposed for the location of a SWM facility, for a total of 16,264 square feet (0.37 acre) of impact. Environmental Technical Manual Part C, Section 2.0, page C-3 states “Isolated nontidal wetlands and their associated buffers are also required to be preserved in and/or restored to a natural state to the fullest extent possible. Impacts to isolated nontidal wetlands will be evaluated on a case-by-case basis. High-quality wetlands that provide an infiltration function shall be preserved and, as determined by the Department of Public Works and Transportation, integrated into the site design as part of the stormwater management concept.”

The impact is replacement of the on-site isolated wetland with a submerged gravel wetland for SWM. While the Environmental Technical Manual supports the integration of high-quality wetlands “that provide an infiltration function [. . .] into the site design as part of the stormwater management concept.” As proposed, the submerged gravel wetland stormwater collection facility does not provide infiltration and, once treated, the stormwater will be piped into the public stormdrain system.

In addition, as stated within the Environmental Technical Manual Part C, Section 2.0, page C-3, “The types of impacts that can be avoided include those for site grading, building placement, parking, stormwater management facilities (not including outfalls), and road crossings where reasonable alternatives exist.” However, impacts to such isolated nontidal wetlands are reviewed on a case by case basis, as allowed by the ETM.

The applicant’s SOJ stated that the existing wetland feature is the result of unauthorized work done to mitigate stormwater issues on an adjacent property. At this time, the wetland is an existing isolated system surrounded by woodland. The SOJ submitted with the PPS stated that this location is the best location for SWM, and that the facility proposed should be considered an improvement for both SWM and wildlife benefit. While SWM is required for development, this area cannot be planted with trees due to buffer requirements for SWM facilities. In addition, the SOJ incorrectly identifies this activity as mitigation. Wetland mitigation is something that is done at the state level. What is included with this PPS is removal of the wetland and replacement with a SWM facility, not mitigation. Wetland mitigation is generally defined by improving and replanting, to enhance the natural wetland features.

Supplemental information was provided by the applicant on July 23, 2024, regarding the considerations taken during the design of SWM to conform to County Code requirements. The applicant detailed their evaluation of the existing wetland and the feasibility of incorporating it into the design of the submerged gravel wetland, as encouraged by the ETM. It was demonstrated that retaining the wetland as it is, or as a forebay function of the SWM facility, would require considerable quantities of fill to increase the surrounding elevations for proper drainage into stormwater facilities. Given the isolated nature of the wetland and the existing hydrology that currently supports the wetland, any development of the property and the required SWM would most likely

result in eventual loss of the isolated wetland. While Impact 1 was not supported in the technical staff report, at the July 25, 2024 hearing, technical staff indicated their agreement with the applicant's supplemental analysis and recommended approval of Impact 1. Impact 1 for the replacement of wetlands systems with SWM facilities at the same location is, therefore, approved.

The REF on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of disturbance shown on the TCP1. With subsequent development applications, the applicant shall explore alternative site layouts to increase woodland conservation on-site.

Soils

Section 24-131 of the prior Subdivision Regulations states "The Planning Board shall restrict or prohibit the subdivision of land found to be unsafe for development. The restriction or prohibition may be due to natural conditions, such as, but not confined to, flooding, erosive stream action, high water table, unstable soils, or severe slopes, or to man-made conditions on the property, such as, but not confined to, unstable fills or slopes."

The predominant soils found to occur, according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey include Beltsville-Urban land complex, Sassafras-Urban land complex, and Udorthents-Urban land complex. According to available information, no unsafe soils containing Christiana complexes or Marlboro clay exist on-site.

14. **Urban Design**—The subject PPS evaluates the development of fifty-eight multifamily dwelling units on a single parcel. Per Section 27-436(e) of the prior Zoning Ordinance, a DSP will be required for the proposed development.

The regulations and requirements of the prior Zoning Ordinance (applicable to this development within the R-18 Zone), applicable sections of the Landscape Manual, and requirements of the Tree Canopy Coverage Ordinance of the County Code will be evaluated at the time of DSP review.

15. **Citizen Feedback**—The Planning Department did not receive any written correspondence from members of the community regarding this project.
16. **Referral to Municipalities**—The subject property is located within one mile of the municipal boundaries of the City of District Heights and the Town of Capitol Heights. The PPS was referred to these municipalities for review and comment on March 25, 2024. The Planning Department did not receive any comments from the municipalities.
17. **Planning Board Hearing**—At the July 25, 2024 Planning Board hearing, staff presented the PPS to the Planning Board. No members of the community signed up to speak at the hearing, regarding this project. The applicant, prior to the July 23, 2024 noon deadline, submitted four exhibits which included supplemental information to support the variance for removal of specimen trees and for impact to the on-site REF. Staff provided a summary of the supplemental information submitted by the applicant and the applicant's revised findings and revisions to

conditions. The applicant, in their presentation, provided information regarding the project, the history of the existing on-site wetland, and the design decisions behind stormwater design. The applicant also described the coordinated development of the subject site with the Penn Place 1 project, on the adjoining property, as an affordable housing project offering different product types. Mr. Rey DeGuzman, Acting Associate Director, DPIE, also attended the hearing and provided the Board with DPIE's analysis of the existing on-site wetland and the stormwater design for the proposed development. Mr. DeGuzman confirmed that the proposed submerged gravel wetland will be an enhancement over the existing isolated wetland, since it will be more efficient in water quality treatment and flood control.

After review, the Board approved deletion of Conditions 1d and 11c related to retention of the on-site wetland, revision of Condition 11b related to the retention of ST-1 and ST-7, and related revisions to the Environmental finding.

The applicant also requested revision to Condition 8e, which requires the development to provide long-term bicycle parking and that it should be provided within the multifamily buildings. The applicant clarified that the architecture of the proposed multifamily units will be similar to that of townhouses, with little, if no common areas to provide long-term bicycle parking in the building interior. The Board approved revisions to Condition 8e, as read into the record, to allow flexibility on the location of long-term bike parking which will be determined at the time of DSP.

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.

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PGCPB No. 2024-085

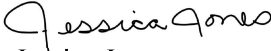
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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey, and Shapiro voting in favor of the motion, and with Commissioner Doerner absent at its regular meeting held on Thursday, July 25, 2024, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of September 2024.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:MG:tr


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel