

PGCPB No. 2024-026

File No. 4-23002

R E S O L U T I O N

WHEREAS, 8133 Baltimore Owner LLC is the owner of a 2.71-acre parcel of land known as Lots 3–11, Block 18 of Lakeland, said property being in the 21st Election District of Prince George's County, Maryland, and being zoned Neighborhood Activity Center (NAC) and Local Transit Oriented-Edge (LTO-E); and

WHEREAS, on February 13, 2024, 8133 Baltimore 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 Subdivision Plan, also known as Preliminary Plan 4-23002 for Project Turtle 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 April 18, 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 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 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 April 18, 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 Preliminary Plan of Subdivision 4-23002, including Variations from Section 24-122(a) and Section 24-129(a)(5), 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. In General Note 1, correct the plat reference to Plat Book LIB A Plat 51.

- b. On the location map on the coversheet, revise the red-hatched site boundary to exclude the area of off-site Parcel B.
2. Development of this site shall be in conformance with Stormwater Management Concept Plan 2152-2023-00 and any subsequent revisions.
3. Prior to approval, the final plat of subdivision shall include notes indicating approval of a variation from Section 24-122(a) and approval of a variation from Section 24-129(a)(5).
4. The applicant and the applicant's heirs, successors, and/or assignees shall show the following facilities on the detailed site plan, prior to its acceptance:
 - a. A minimum 5-foot-wide bicycle lane along the site's frontage of US 1, unless modified by the operating agency with written correspondence.
 - b. Short- and long-term bicycle parking, as shown on the circulation plan (Sheet 4 of the preliminary plan of subdivision).
5. 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.
6. 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 detailed site plan (DSP). Timing for construction shall also be determined at the time of DSP.
7. Prior to submission of the final plat of subdivision, the applicant, and the applicant's heirs, successors, and/or assignees shall submit for approval, 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. 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.
8. 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.
9. A disclosure clause shall be placed on final plats and deeds and be included as an addendum to any contract for sale of the property, 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.

10. At the time of detailed site plan review, the applicant shall evaluate opportunities to provide publicly accessible outdoor seating and eating areas, walking areas, fitness areas, and/or open play areas as part of the recreational facilities. If the opportunity for public accessibility is determined to be feasible and appropriate, a public use easement or covenant shall be established at the time of final plat.

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 site is located on the east side of US 1 (Baltimore Avenue), between Melbourne Place and Navahoe Street. The property totals 2.71 acres and consists of nine lots known as Lots 3–11, Block 18 of Lakeland, recorded in Plat Book LIB A Plat 51 of the Prince George's County Land Records. The property is in the Neighborhood Activity Center (NAC) Zone and the Local Transit Oriented - Edge (LTO-E) Zone and is subject to Aviation Policy Areas 4 and 6 (APA-4 and APA-6). However, this PPS was submitted for review under the prior Zoning Ordinance and Subdivision Regulations, pursuant to Section 24-1903(a) of the Subdivision Regulations. Under the prior Zoning Ordinance, the property was in the Mixed Use-Infill (M-U-I) Zone and the Development District Overlay (D-D-O) Zone, and subject to the prior versions of APA-4 and APA-6, all of which were effective prior to April 1, 2022. The property is subject to the 2010 *Approved Central US 1 Corridor Sector Plan and Sectional Map Amendment* (sector plan).

The property is currently the site of several commercial buildings, totaling 34,422 square feet of gross floor area (GFA), all of which will be razed. The property is not the subject of any prior preliminary plan of subdivision (PPS). This PPS will consolidate the property into one parcel and proposes construction of a mixed-use building containing 13,684 square feet of retail commercial development, a 2,219-square-foot community center, and 299 multifamily dwelling units, which are to be used for student housing. A new PPS is required for the construction of multiple dwelling units and more than 5,000 square feet of nonresidential development.

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 January 30, 2023. In accordance with Section 24-1904(b), the applicant provided a statement of justification (SOJ) on January 30, 2024, 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-2023-002.

The applicant filed a request for a variation from Section 24-122(a) of the prior Subdivision Regulations, in order to omit public utility easements (PUEs) required along the property's public road frontages. This request is discussed further in the Public Utility Easement finding of this resolution.

The applicant filed a request for a variation from Section 24-129(a)(5) of the Subdivision Regulations, in order to allow the residential development to be set back less than 25 feet from the floodplain, because the entire property is located within the floodplain. This request is discussed further in the Environmental finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 33 in Grid D-2, and it is within Planning Area 66. North of the site is Navahoe Street, with a food and beverage store in the LTO-E Zone (prior M-U-I Zone) and a multifamily building in the Residential, Multifamily-48 Zone (prior Multifamily High Density Residential Zone) beyond. West of the site is US 1, with a mixed-use building in the edge area of the Regional Transit Oriented Low Intensity Zone (prior M-U-I Zone) beyond. South of the site is Melbourne Place, with a fire station and a medical office building in the NAC Zone (prior M-U-I Zone) beyond. East of the site are townhouses in the Residential Single Family Attached Zone (prior Townhouse Zone). The southern portion of the property is in APA-4 and the northern portion of the property is in APA-6.
4. **Development Data Summary**—The following information relates to the subject PPS and the evaluated development.

	EXISTING	EVALUATED
Zones	LTO-E/NAC/APA-4/APA-6	M-U-I/D-D-O/APA-4/APA-6
Use(s)	Commercial	Mixed-use (residential, commercial, and institutional)
Acreage	2.71	2.71
Parcels	0	1
Lots	9	0
Dwelling Units	0	299
Non-residential GFA	34,422	15,903
Subtitle 25 Variance	No	No
Variation	No	Yes (Sections 24-122(a) and 24-129(a)(5))

The subject PPS 4-23002 was accepted for review on February 13, 2024. Pursuant to Section 24-119(d)(2) of the prior Prince George’s County Subdivision Regulations, the PPS was reviewed by the Subdivision and Development Review Committee (SDRC), which held a meeting on March 1, 2024, at which comments were provided to the applicant. Pursuant to Section 24-113(b) of the prior Prince George’s County Subdivision Regulations, the requests for variations from Sections 24-122(a) and 24-129(a)(5) were submitted alongside the PPS, and were also reviewed at the SDRC meeting on March 1, 2024. Revised plans were received on March 14, 2024, which were used for the analysis contained herein.

5. **Previous Approvals**—Existing Lot 6 is subject to Special Exception SE-1557, which approved the existing gas station on this lot. However, this SE is not relevant to the current PPS, because the gas station is to be razed.

6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the sector plan are evaluated, as follows:

Plan 2035

This property is in the University of Maryland East Local Center, as designated in Plan 2035, which is one of the focal points for development and civic activity based on its access to transit or major highways. The plan contains recommendations for directing medium- to medium-high residential development, with limited commercial uses to centers, rather than scattering them throughout the Established Communities (page 19).

The subject property is also in the Innovation Corridor. This area has the highest concentrations of economic activity in the County's four targeted industry clusters and has the greatest potential to catalyze future job growth, research, and innovation in the near- to mid-term. This area is well positioned to capitalize on the synergies that derive from businesses, research institutions, and incubators located in close proximity to one another, and on existing and planned transportation infrastructure, such as the Purple Line (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, local transit, and existing industry clusters.

Sector Plan

The sector plan designates "Mixed-Use Commercial" as the approved land use on the subject property, which is described as "properties that contain a mix of uses that are predominantly nonresidential on the ground floor, including commerce, office, institutional, civic, and recreational uses. These properties may include a residential component but are primarily commercial in nature" (page 57).

The property is split between the Corridor Infill and Walkable Node character areas of the plan. The area of the development fronting US 1 is within the Walkable Node character area, where the land use and urban design policies are as follows:

1. **Develop a series of pedestrian-friendly, transit-oriented, mixed-use walkable nodes at appropriate locations along the Central US 1 Corridor.**
2. **Establish a strong sense of place along the Central US 1 Corridor by ensuring the highest quality of development.**
3. **Create appropriate transitions between the higher intensity walkable nodes and existing residential neighborhoods.**

The proposed development is for a multi-family apartment building, with ground floor commercial, fronting US 1. This development aligns with the goals and policies of Walkable Nodes and sites active mixed-uses along the primary corridor, creating a pedestrian-friendly atmosphere. It is consistent with other mixed-use buildings in close proximity that also have

residential floors above a commercial ground floor. This cluster of commercial activity, spanning the US 1 corridor, will enhance the sense of place, strengthen walkability, and bolster economic growth in the center.

The land use and urban design policies of the Corridor Infill character area generally emphasize the need for appropriate transitions from the higher-density developments in the Walkable Nodes to lower-density residential communities. Its policies also emphasize comfortable and safe pedestrian connections and park-like landscapes. While this project is being developed in alignment with Walkable Node densities and standards, at the time of the detailed site plan (DSP), it should also incorporate architectural gestures that soften the transition in height from the seven-story building proposed to the abutting two-story townhomes immediately east of the site.

According to Plan 2035, all planning documents which were duly adopted and approved prior to the date of adoption of Plan 2035, remain in full force and effect, except for the designation of tiers, corridors, and centers, until those plans are revised or superseded. Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, a PPS must conform to the area master plan, unless events have occurred to render the relevant recommendations no longer appropriate, or the Prince George's County District Council has not imposed the recommended zoning. This PPS conforms to the land use recommendations of the sector plan.

Sectional Map Amendment/Zoning

The 2010 sectional map amendment associated with the sector plan retained the subject property in the M-U-I Zone. 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 into the LTO-E and NAC Zones. However, this PPS was reviewed according to the prior zoning.

Aviation

This PPS is located within APA-4 and APA-6. Pursuant to Section 27-548.38(a), for an individual property, APA regulations are the same as in the property's underlying zone, except as stated in Subdivision 3, Regulations, of Part 10B, Division 1 of the prior Zoning Ordinance. Pursuant to Section 27-548.42(b), 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. Pursuant to Section 27-548.41(b)(4), APA-4 should retain 30 percent open area. Conformance with the APA requirements will be further evaluated at the time of DSP. Notification of an airport environment shall be provided in accordance with Section 27-548.43(a) and (b)(2).

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 SWM Concept Plan (2152-2023-00) was submitted with the PPS, which shows the use of seven planter box micro-bioretenment facilities and an underground stormwater detention system. This SWM plan was approved on January 9, 2024, and will expire on January 9, 2027. The entire site is within the primary management area (PMA) associated with the 100-year

floodplain. Development within the floodplain requires a waiver issued by the Prince George's County Department of Permitting, Inspections, and Enforcement (DPIE). An approved floodplain waiver dated December 18, 2023, was issued by DPIE and submitted with the PPS.

Development of the site, in conformance with the SWM concept plan 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 has been reviewed for conformance with the requirements and recommendations of Plan 2035, the sector plan, the 2022 *Land Preservation, Parks and Recreation Plan for Prince George's County* (LPPRP), the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space* (Formula 2040), and the prior Subdivision Regulations, as they pertain to public parks and recreational facilities.

Park and recreation facilities serving the subject property include the Paint Branch Stream Valley Park I and II and Lakeland Park, which is within 0.25 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.

Conformance with Applicable Plans

The development aligns with the parks and recreation intentions of the applicable plans, as listed above, 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.

Subdivision Regulations Conformance

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 recreational facilities to meet the park and recreation needs of the residents of the subdivision. Based on the evaluated density of development, 15 percent of the net residential lot area could be required to be dedicated to The Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks, which equates to 0.26 acre for public parklands. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC. Given the location of the property, the conveyance of 0.26 acre of land is not feasible 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, fitness areas, open play areas, and basketball and tennis courts.

Per Section 24-135 of the prior Subdivision Regulations, the Prince George's County Planning Board may approve the provision of on-site recreational facilities, in place of parkland dedication. For this development, the requirement is to be met with on-site recreational facilities, which conceptually include the provision for seating and a dog park on level one, an east and west courtyard on the third level, and a terrace on the seventh level as recreational facilities.

On-site recreation is found to be acceptable to meet the parkland dedication requirement. The development should include varied recreation opportunities and facilities for future residents and guests. A mix of active, passive, inclusive, and year-round recreation facilities shall be provided and shall be reviewed, at the time of DSP.

The provision of on-site recreation facilities will meet the recreational needs of the future residents of this community, and will be in conformance with applicable plans and the requirements of Subtitle 24, as they pertain to parks and recreation facilities.

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

MASTER PLAN CONFORMANCE

Master Plan Right-of-Way

The subject property has frontage on US 1 (master-planned major collector MC-200) along the western bounds of the site. Page 260 of the sector plan identifies the right-of-way (ROW) for this portion of US 1, located between the Capital Beltway and College Avenue, as 88–92 feet wide. The PPS accurately displays this portion of US 1 as a variable width ROW. No additional dedication is required along US 1.

The subject property also has frontage along Melbourne Place (along the southern bounds of the subject site) and Navahoe Street (along the northern bounds of the subject site). Neither the MPOT nor the sector plan contain ROW recommendations for Melbourne Place or Navahoe Street. The PPS displays both Melbourne Place and Navahoe Street as two-lane roadways, with 50 feet of ROW, which are maintained by the City of College Park.

Master Plan Pedestrian and Bike Facilities

The MPOT recommends the following master-planned facilities:

- **Planned Bicycle Lane: Baltimore Avenue**

The Complete Streets element of the MPOT reinforces the need for multimodal transportation and includes the following policies regarding the accommodation of pedestrians and bicyclists (MPOT, pages 9-10):

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.

The sector plan provides a recommended street section for properties located along US 1, between the Capital Beltway and College Avenue, which is the location of the subject site (page 260).

The sector plan calls for a 6.5-foot-wide bicycle lane at this location. However, the applicant provided correspondence from the Maryland State Highway Administration (SHA) District 3, as well as an SHA-approved signage and pavement marking plan, indicating SHA's plan to construct a 5-foot-wide bicycle lane along the site's frontage of US 1. This facility shall be included in the DSP. In addition, short- and long-term bicycle parking shall be provided on-site to accommodate multi-modal use. Short- and long-term bicycle parking is shown on the circulation plan provided with the PPS (Sheet 4).

Access and Circulation

The primary point of vehicle entry is to be along Melbourne Place. This point of entry allows vehicles to enter the parking garage or enter a small circulation loop designed for rideshare or local deliveries. The circulation loop is one-directional and allows cars to exit onto US 1 after departing the loop. An additional point of vehicle access is provided along Navahoe Street. The PPS indicates that this will not be an entrance to the parking facility and will only be used for loading and trash pickup. Crosswalks are shown at all vehicle entry points, bringing additional attention to pedestrians who may be crossing the drive aisles. The vehicular access and circulation shown are acceptable.

Based on the findings presented above, multimodal transportation facilities will exist to serve the subdivision, as required under prior Subtitle 24 of the County Code, and will conform to the MPOT and 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 section on public facilities within the infrastructure chapter. The overall vision for public facilities states:

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.

The public facilities section also identified the following policies:

Public School Policies:

Policy 1: Establish a standard minimum site size for new construction, rehabilitation, and the adaptive reuse of structures for schools within urban settings.

Policy 2: Preserve, retain, and support existing public school facilities, existing and former school sites, and properties owned by the Board of Education.

Policy 3: Construct the appropriate number of schools in order to achieve a school system that operates at 100 percent capacity or less at every school.

Public Safety Policies:

Police:

Policy: Maintain police facilities that meet the needs of the Central US 1 Corridor community.

Fire/EMS:

Policy: Provide fire and rescue facilities that meet the needs of the Central US 1 Corridor community, based upon established county standards and their ability to accommodate modern vehicles and equipment.

The development will not impede achievement of the above-referenced vision or policies or impede any specific facility improvements. The analysis provided with approved Certificate of Adequacy ADQ-2023-002 illustrates that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the development. Water and sewer service are also adequate to serve the development, as discussed below. There are no master-planned police, fire and emergency medical service facilities, public schools, 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, renovations to existing facilities, and construction of new facilities; however, none of its recommendations affect the subject 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 PPS 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 PUEs is 10 feet wide along both sides of all public ROWs. The subject property has frontage on US 1, Navahoe Street, and Melbourne Place, and no PUEs are shown on the plan. The applicant requested a variation from Section 24-122(a) of the prior Subdivision Regulations, to allow omission of the PUEs.

Variation from Section 24-122(a)

Section 24-113 sets forth the required criteria for 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 to omit PUEs along the public street frontages will not be detrimental to public safety, health, or welfare, or be injurious to other property, because, as shown on a conceptual utilities exhibit provided by the applicant, all utilities needed to serve the subject property and the surrounding properties are already located within the public ROW. No property will be denied access to utilities due to the omission of PUEs from the subject property.

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

The conditions on which the variation is based are unique to the site in that the project is a redevelopment of a site, in a built environment, where all abutting properties are served by public utilities, and yet none of the properties have provided PUEs. Given the requirements of Section 24-122(a), such a scenario does not typically occur when properties are developed, and so these conditions are not generally applicable to other properties. The PUEs, if provided, would not be used, which is also not a circumstance generally applicable to other properties.

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

The approval of a variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. Further, this PPS and variation request were 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;**

Particular physical surroundings of the subject property, which affect the variation request, include its position in the D-D-O Zone associated with the sector plan and its position within the 100-year floodplain. Both of these impose design requirements on the public street frontage, including streetscape enhancements, building amenities, and SWM improvements. Requiring PUEs along the public road frontages would complicate the applicant's ability to meet these other requirements and, given that utilities do not need to be provided within the PUEs (due to them already being located in the ROW), requiring PUEs would result in a particular hardship to the owner rather than a mere inconvenience.

- (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.

The variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, but instead will result in a better outcome than could be achieved through strict compliance with the Subdivision Regulations. Therefore, the variation from Section 24-122(a), to allow omission of PUEs from public street frontages, is approved.

12. **Historic**—The sector plan contains goals and policies related to historic preservation (pages 193-201). However, these are not specific to the subject site. The subject property is within the Lakeland Historic Community (PG:66-000) and contains Town Hall Liquors (PG: 66-44), a documented property. The subject property does not contain, and is not adjacent to, any designated Prince George's County historic site or resource.

13. **Environmental**—The following applications and associated plans were previously reviewed for the subject site:

Development Review Case	Associated TCP(s)	Authority	Status	Action Date	Resolution Number
NRI-008-2019 (Equivalency Letter)	N/A	Staff	Approved	2/4/2019	N/A
NRI-008-2019-01	N/A	Staff	Approved	3/27/2023	N/A
4-23002	Exempt per S-051-2023	Planning Board	Approved	4/18/2024	2024-026

Grandfathering

The project is subject to the current environmental regulations contained in Subtitle 25 and prior Subtitles 24 and 27, because it is a new PPS.

Site Description

The entire site is within the 100-year floodplain, and is within the Paint Branch watershed, a tributary of the Anacostia River.

Plan 2035

The site is located within a General Plan Center of Plan 2035, specifically the University of Maryland East Campus Center. The site is within Environmental Strategy Area 1 of the Regulated Environmental Protection Areas Map as designated by Plan 2035, and within the Established Communities of the General Plan Growth Policy Map.

ENVIRONMENTAL CONFORMANCE WITH APPLICABLE PLANS

Sector Plan Conformance

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

Policy 2: Restore and enhance water quality in the Paint Branch stream system and other areas that have been degraded and preserve water quality in areas not degraded.

The site does not abut the Paint Branch stream system; however, this project will redevelop an existing developed site and has received a SWM concept approval to manage stormwater using current standards and to reduce pollutant runoff to Paint Branch.

Policy 4: Reduce flooding and its detrimental effects on human and natural resources.

The site is currently fully developed within the 100-year floodplain. This project will raze the existing flood-prone buildings. The development will be subject to current SWM

requirements, which will retain and store floodplain temporarily on-site, contain and pre-treat the stormwater runoff and control the release into the Paint Branch stream system. The approved SWM concept plan shows the use of seven planter box micro-bioretenement stormwater facilities and an underground detention system.

The entire site is identified as PMA associated with the 100-year floodplain. Development within the floodplain requires a waiver to be issued by DPIE. An approved floodplain waiver from DPIE, dated December 18, 2023, was submitted with the PPS.

Policy 5: Implement environmentally sensitive design building techniques and reduce overall energy consumption.

Design and building specifications will be evaluated at the time of DSP.

Policy 6: Preserve and enhance the existing urban tree canopy.

Tree canopy coverage and other requirements of the 2010 *Prince George's County Landscape Manual* will be evaluated at the time of DSP. Based on aerial imagery and Natural Resources Inventory, NRI-008-2019-01, the site appears to contain little to no tree canopy.

Policy 7: Reduce light pollution and intrusion into residential communities and environmentally sensitive areas.

Lighting details will be evaluated at the time of DSP.

Policy 8: Reduce air pollution to support community health and wellness by supporting development that is accessible by nonmotorized and alternative modes of travel, as well as by increasing the urban tree canopy.

This policy identifies that mixed-use development is a potential strategy in achieving this policy. The PPS includes consolidation of nine existing lots into one parcel for a mixed-use development. Urban tree canopy will be evaluated at the time of DSP.

Policy 9: Reduce adverse noise impacts to meet State of Maryland noise standards.

This site is not located adjacent to any roadways of arterial classification or higher, which would require noise mitigation for the dwelling units.

Conformance with the Green Infrastructure Plan

The 2017 *Countywide Green Infrastructure Plan* of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan) shows regulated and evaluation areas on site. The entire site is within the 100-year floodplain.

The following policies and strategies are applicable to the subject PPS. The text in bold is the text from the Green Infrastructure Plan and the plain text provides comments on plan conformance:

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

- 1.1 Ensure that areas of connectivity and ecological functions are maintained, restored and/or established by:**
 - a. Using the designated green infrastructure network as a guide to decision-making and using it as an amenity in the site design and development review processes.**
 - b. Protecting plant, fish, and wildlife habitats and maximizing the retention and/or restoration of the ecological potential of the landscape by prioritizing healthy, connected ecosystems for conservation.**
 - c. Protecting existing resources when constructing stormwater management features and when providing mitigation for impacts.**
 - d. Recognizing the ecosystem services provided by diverse land uses, such as woodlands, wetlands, meadows, urban forests, farms and grasslands within the green infrastructure network and work toward maintaining or restoring connections between these.**
- 1.2 Ensure that Sensitive Species Project Review Areas and Special Conservation Areas (SCAs), and the critical ecological systems supporting them, are preserved, enhanced, connected, restored, and protected.**
 - a. Identify critical ecological systems and ensure they are preserved and/or protected during the site design and development review processes.**
 - b. Prioritize use of public funds to preserve, enhance, connect, restore, and protect critical ecological systems.**

While portions of the site are mapped as regulated areas and evaluation areas, the entire site is fully developed and within the 100-year floodplain. The project is not within a Sensitive Species Project Review Area or a Special Conservation Area. Other than floodplain, there are no other regulated environmental features (REF) on-site, and there is no woodland on-site. This project will raze existing flood-prone buildings, and the development will be subject to current SWM requirements, which will retain and store floodplain on-site, thus protecting nearby green infrastructure areas by reducing the flow of the stormwater and improving the quality of stormwater runoff into Paint Branch stream system.

The approved SWM concept plan shows the use of seven planter box micro-bioretenction SWM facilities and an underground detention system. The entire site is within PMA associated with the 100-year floodplain. An approved floodplain waiver was issued by DPIE.

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

- 2.4 Identify Network Gaps when reviewing land development applications and determine the best method to bridge the gap: preservation of existing forests, vegetation, and/or landscape features, and/ or planting of a new corridor with reforestation, landscaping and/or street trees.**
- 2.5 Continue to require mitigation during the development review process for impacts to regulated environmental features, with preference given to locations on-site, within the same watershed as the development creating the impact, and within the green infrastructure network.**
- 2.6 Strategically locate off-site mitigation to restore, enhance and/or protect the green infrastructure network and protect existing resources while providing mitigation.**

As shown on NRI-008-2019-001, the site does not contain existing woodland or REF besides floodplain. This property is not subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size but contains less than 10,000 square feet of existing woodland. The site has an approved standard WCO letter of exemption, S-051-2023, which was approved on March 30, 2023, and will expire on March 30, 2025.

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.**

As shown on NRI-008-2019-001, the site does not contain existing woodland or REF besides floodplain. The site is currently fully developed with impervious surface. No new culverts, bridges, or roads are included with the 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.**

As shown on NRI-008-2019-001, the site does not contain existing woodland or REF besides floodplain. There will be no woodland preservation or planting on-site.

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

- 5.8 Limit the placement of stormwater structures within the boundaries of regulated environmental features and their buffers to outfall pipes or other features that cannot be located elsewhere.**
- 5.9 Prioritize the preservation and replanting of vegetation along streams and wetlands to create and expand forested stream buffers to improve water quality.**

As shown on NRI-008-2019-001, the site does not contain existing woodland or REF besides floodplain. This project will raze existing flood-prone buildings. The development will be subject to current SWM requirements, which will retain and store floodplain on-site, and will protect nearby green infrastructure areas by reducing and improving the stormwater runoff into Paint Branch stream system.

The approved SWM concept plan shows the use of seven planter box micro-bioretenion SWM facilities and an underground stormwater detention system.

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

General Strategies for Increasing Forest and Tree Canopy Coverage

- 7.1 Continue to maximize on-site woodland conservation and limit the use of off-site banking and the use of fee-in-lieu.**
- 7.2 Protect, restore, and require the use of native plants. Prioritize the use of species with higher ecological values and plant species that are adaptable to climate change.**

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

Tree canopy coverage and other landscape manual requirements will be evaluated at the time of DSP. Based on aerial imagery and NRI-008-2019-01, the site appears to contain little to no existing tree canopy.

Forest Canopy Strategies

- 7.12 Discourage the creation of new forest edges by requiring edge treatments such as the planting of shade trees in areas where new forest edges are proposed to reduce the growth of invasive plants.**
- 7.13 Continue to prioritize the protection and maintenance of connected, closed canopy forests during the development review process, especially in areas where FIDS habitat is present or within Sensitive Species Project Review Areas.**
- 7.18 Ensure that new, more compact developments contain an appropriate percentage of green and open spaces that serve multiple functions such as reducing urban temperatures, providing open space, and stormwater management.**

As shown on NRI-008-2019-001 the site does not contain existing woodland. Tree canopy coverage and other landscape manual requirements will be evaluated at the time of DSP.

ENVIRONMENTAL REVIEW

Natural Resources Inventory/Existing Conditions

NRI-008-2019 was previously approved for the site in the form of an equivalency letter. NRI-008-2019-01 is a full natural resources inventory and was submitted with this PPS. The entire 2.71-acre site is within the 100-year floodplain. There are no other REF, such as streams, stream buffers, wetlands, or wetland buffers on-site, and the site does not contain existing woodland. No additional information is required regarding the NRI.

Woodland Conservation

This property is not subject to the provisions of the WCO because the property is greater than 40,000 square feet in size but contains less than 10,000 square feet of existing woodland. The site has an approved standard letter of exemption from the WCO, S-051-2023, which was approved on March 30, 2023, and will expire on March 30, 2025.

Specimen Trees

The site does not contain specimen trees.

Preservation of Regulated Environmental Features/Primary Management Area

REF are required to be preserved and/or restored to the fullest extent possible, under Section 24-130(b)(5) of the Subdivision Regulations. Section 24-130(b)(5) states: “Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of REF in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All REF 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 those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for SWM facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the 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.

Impact 1 – Development within 100-year Floodplain

Impact 1 is for the redevelopment of an existing developed site. The total impact is 2.71 acres, the size of the entire site.

An SOJ was received with the PPS materials for impacts to the PMA. The entire 2.71-acre site is within the 100-year floodplain. The SOJ includes one permanent impact to REF associated with the redevelopment, totaling 2.71 acres.

The site is currently fully developed, so any development would impact the floodplain. The approved SWM concept plan shows the use of seven planter box micro-bioretenment SWM facilities and an underground stormwater detention system. The mixed-use building will be elevated above the 100-year flood protection elevation. The PMA impact is considered necessary to the orderly development of the property. The impacts cannot be avoided because the site is entirely within the floodplain and is currently fully developed.

Based on the level of design information currently available, the REF on the subject property have been preserved and/or restored to the fullest extent possible. PMA Impact 1 is necessary for construction and is reasonable for the orderly and efficient redevelopment of the subject property, and so the impact is approved.

Variation Request for Setback of Residential Development from the Floodplain

Separate from the requirements of Section 24-130, Section 24-129 of the Subdivision Regulations provides requirements for development of land within the 100-year floodplain. Because the site is entirely within the 100-year floodplain, and because residential development is included in the mix of uses, the development will not be able to meet the requirements of Section 24-129(a)(5), which requires that a 25-foot-setback from the floodplain be established for residences as a building restriction line. There is no part of the property lying more than 25 feet away from the floodplain boundary where residences could be developed, because the floodplain boundary does not lie on site. The applicant submitted a request for a variation from Section 24-129(a)(5) to allow the residential development to be set back less than 25 feet from the floodplain.

Section 24-113 sets forth the required criteria for 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 to public safety, health, or welfare, or be injurious to other property, because the applicant was required to take measures against possible flood impacts in order to obtain a floodplain waiver from DPIE. These measures are given in the conditions of the floodplain waiver, and include, but are not limited to, elevating the building above the 100-year flood protection elevation, and demonstrating that the fill in the floodplain will not raise the floodplain elevation on other properties. An underground vault providing compensatory storage for floodwater is shown on the approved SWM concept plan. This criterion will be met, as long as the requirements of DPIE's floodplain waiver are met.

- (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 in that the property is entirely within the 100-year floodplain, a condition shared by the property's immediate neighbors, but not generally applicable to other properties within the County. The property

is further unique in that it is already developed, a condition again shared by the property's immediate neighbors, but not generally applicable to other properties within the County floodplain. Section 24-129(a)(5) anticipates that properties will have an area of the site where residences can be developed set back from the floodplain, but this expectation does not hold for the subject PPS due to the unique circumstances of the site's location.

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

The approval of a variation from Section 24-129(a)(5) is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. Further, this PPS was referred to DPIE, which did not object to the granting of the variation and granted the applicant a floodplain waiver. Granting the variation will not nullify any of the conditions of the waiver. 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 topography of the subject site places it fully within the 100-year floodplain. If the strict letter of these regulations were carried out, the applicant would not be able to develop the site with residential uses, which would be a particular hardship to the owner. Subtitle 32, Division 4, Floodplain Ordinance, of the County Code is administered by DPIE and contains the same setback requirement but authorizes waivers to be granted where the design of the SWM and development are found not to violate the proposed intent of the Division (Section 32-206(d)). The DPIE-approved floodplain waiver requirement, to elevate the building above the 100-year flood protection elevation, serves the same purpose as the 25-foot setback requirement, to protect dwellings from floods, making it unnecessary to carry out the strict letter of the regulations. Further, mixed-use development is recommended for this location by the sector plan, and a residential component is anticipated for the mixed-use.

(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.

The variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, but instead will result in a better outcome than could be achieved through strict compliance with the Subdivision Regulations. Therefore, the variation from Section 24-129(a)(5), to allow the residential development to be set back less than 25 feet from the floodplain, is approved.

Soils

The predominant soils found to occur according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, include Urban land-Woodstown complex (0 to 5 percent slopes). According to available mapping information, unsafe soils containing Marlboro clay or Christiana complexes do not occur on this property.

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

14. **Urban Design**—The development will be subject to DSP approval, at which time the following requirements will be applicable:

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

The development is required to file a DSP, in accordance with Section 27-546.19(a).

Conformance with the prior Zoning Ordinance is required for the development and will be reviewed at the time of DSP, including, but not limited to, the following:

- Section 27-546.15, Purposes;
- Section 27-546.17, Uses;
- Section 27-546.18, Regulations; and
- Section 27-546.10, Site Plans for Mixed Uses.

The development will also be evaluated for conformance to the applicable standards of the D-D-O Zone associated with the sector plan at the time of DSP review. It is noted that the property straddles two different character areas described in the sector plan. The “Walkable Node” and “Corridor Infill” areas have maximum building heights of six-stories and four-stories, respectively. Conformance with the height requirement will be evaluated at the time of the DSP review. It is further noted that the D-D-O Zone states that the “Corridor Infill” character area should have a maximum lot coverage of 70 percent. Conformance with the lot coverage requirement will also be evaluated at the time of the DSP review.

Conformance with the 2010 Prince George's County Landscape Manual

Pursuant to Section 27-124.03 of the prior Zoning Ordinance, the development is subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual). However, the sector plan states that Sections 4.2, 4.3, and 4.7 of the Landscape Manual do not apply within the development district (page 226). Therefore, the development is only subject to the requirements of Sections 4.1, 4.4, and 4.9 of the Landscape Manual. Conformance with the applicable landscaping requirements will be determined at the time of DSP review.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development project that proposes more than 5,000 square feet of gross floor area, or disturbance, and requires a grading permit. The subject site, in the prior M-U-I Zone, is required to provide a minimum of 10 percent of the gross tract area to be covered by tree canopy. Compliance with this requirement will be evaluated at the time of DSP review.

Approval of this PPS will not pose an impediment to achieving conformance with the prior Zoning Ordinance, the Landscape Manual, and the tree canopy coverage requirements, at the time of DSP review.

15. **City of College Park**—The subject property lies within the municipal boundary limits of the City of College Park (City). On April 9, 2024, the City of College Park City Council voted unanimously to support approval of the PPS, as well as the applicant's requested variations from the prior Subdivision Regulations. As provided in the City's letter of support (Bader to Shapiro, dated April 10, 2024), the City recommended approval of the PPS, subject to two conditions. The City's conditions are listed below in **bold** text, and responses to each are given in plain text.

1. **At the time of DSP, to better address the intent of the Mandatory Dedication of Parkland requirement, the applicant shall provide areas that can be accessed and used by the general public, such as outdoor seating and eating areas, walking areas, fitness areas, and/or open play areas.**

The intent of the mandatory dedication of parkland requirement given in Section 24-134 of the prior Subdivision Regulations, as well as the fee-in-lieu and recreational facilities alternatives given in Section 24-135, is to ensure recreational facilities will be available for the residents of the subdivision. The applicant will meet the requirement with on-site recreation facilities, and Section 24-135(b)(2) requires that these facilities "will be properly developed and maintained to the benefit of future residents." There is no requirement given in the Subdivision Regulations that recreational facilities provided to meet the needs of residents must also be available to the public.

However, in an urban environment where outdoor facilities may be public facing and invite the opportunity for public socialization and interaction with residents of the subdivision, public accessibility should be considered. Such consideration is supported by the sector plan which, in the Parks and Recreation section, recommends that

redevelopment projects along US 1 integrate public green spaces and recommends creating partnerships with non-governmental providers to provide recreation services:

Policy 5: In mixed-use redevelopment projects, integrate public green spaces within the Central US 1 Corridor with an emphasis toward creating safe, attractive spaces for socializing, free play, and programmed events for the public (page 109).

Policy 6: Create partnerships with governmental and non-governmental providers to bring recreational services to more people (page 108).

For these reasons, at the time of DSP review, the applicant shall evaluate opportunities to provide publicly accessible outdoor seating and eating areas, walking areas, fitness areas, and/or open play areas as part of the recreational facilities. Any recreational facilities made available to the public shall have a public access easement(s) or covenant established over them to ensure public access. It is noted that the most recent plan for the development does not have any outdoor, ground-level and street-facing recreation facilities or similar amenities which would be easily accessible to the public, as much of the building frontage will be raised from the street level, with the possible exception of the dog run on the north side of the building.

2. **Prior to supporting DSP approval, the Applicant shall execute a Declaration of Covenants and Agreement with the City that includes the following provisions at a minimum: PILOT to City if the property becomes tax exempt; unitary management and condominium conversion requirements; acknowledgement of responsibility for maintenance of pedestrian light fixtures, landscaping, and sidewalks; public access easements-if needed, and consider an outdoor public art feature, which can be matched by City funds (up to \$15,000) and incorporates the conditions identified in the MOU, as appropriate, and arrangements for construction parking and staging.**

The purposes of the Declaration of Covenants and Agreement recommended by the City are not germane to the criteria for approval of a PPS given in the Subdivision Regulations, and so this recommendation is not adopted as a condition of approval of the PPS. The applicant and the City have discussed entering into a private agreement of their own accord; however, because the purposes of the agreement are not germane to the PPS approval criteria, the Planning Board does not need to be the authority to enforce this agreement.

In addition to the April 10, 2024 letter, the City informed the Prince George's County Planning Department by email dated April 10, 2024 (Bader to Diaz-Campbell), that the City Council recommended the following additional conditions/considerations at the time of DSP. The City's recommended conditions/considerations are listed below in **bold** text and the response is given in plain text.

1. **Provide a Rodent Control plan at time of demolition of the building. When a previous building was razed, rats flooded the adjoining neighborhood.**

2. **Set aside a percentage of rooms as affordable units for students with demonstrated need, i.e. Pell Grants, AMI eligible, etc.**
3. **Make building LEED or equivalent.**
4. **Focus on making travel from parking to retail seamless.**
5. **Provide crosswalks across Navahoe to project.**
6. **Provide VEO ride station on site.**

Recommendations 1, 2, 3, and 6 above are not germane to the criteria for approval of a PPS given in the Subdivision Regulations. The City could consider making private arrangements with the applicant, in order to ensure these recommendations are addressed.

Recommendation 4 pertains to the internal building layout and should be evaluated at the time of DSP. It would be premature to condition a seamless connection between the retail and parking areas with the PPS, when the internal building layout is not evaluated. It is noted that documents submitted for pre-acceptance of the site's Detailed Site Plan (DSP-23009) do show two breezeways between the Level 1 parking area and Level 1 retail, which may meet the intent of this recommendation.

With regard to Recommendation 5, there is an existing crosswalk crossing Navahoe Street at its intersection with US 1. The recommendation suggests that multiple crosswalks should be provided across Navahoe Street. A need for additional crosswalks was not identified or evaluated during the review of the PPS, and so the need for, and positions of, any additional crosswalks should be evaluated with the DSP. Because there has not yet been any evaluation of the need for additional crosswalks, they are not conditioned with this PPS.

Recommendations 1–6 may all be further considered with the DSP.

16. **Community Feedback**—The Planning Department did not receive any correspondence from the community for this subject PPS.
17. **Planning Board Hearing of April 18, 2024**—At the Planning Board hearing on April 18, 2024, staff gave a brief presentation discussing exhibits received for the record, which included the applicant's requested revisions to the conditions of approval, the letter and email submitted by the City of College Park, and a staff memorandum written in response to the City's recommendations. The Planning Board emphasized the importance of evaluating the need for additional crosswalks on Navahoe Street, as recommended by the City, and ensuring accessibility of the site in accordance with the Americans with Disabilities Act (ADA). The applicant discussed several topics related to the development, including its location in the floodplain, the proposed on-site community center, and improvements to US 1 being made by SHA. The applicant also stated that they are working with the City on the issues raised by the City in their letter and email referenced in the City of College Park finding above. The City's representative

conveyed the City's support for the PPS and the conditions of approval, and discussed the need for ADA accessibility to the site, their interest in publicly accessible recreational facilities, and their appreciation for the proposed on-site community center.

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 Geraldo, with Commissioners Washington, Geraldo, Bailey, Doerner, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, April 18, 2024, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of May 2024.

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 5/9/24