

PGCPB No. 2024-049

File No. 4-24009

R E S O L U T I O N

WHEREAS, SQUARE 2122 LLC is the owner of 1.90 acres of land known as Lot 14, Block B, said property being in the 2nd Election District of Prince George's County, Maryland, and being zoned Industrial, Employment (IE) and

WHEREAS, on March 20, 2024, Civil Construction, LLC filed an application for approval of a Preliminary Plan of Subdivision for one lot; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-24009 for Kenilworth Interchange Industrial Park 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 June 6, 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, 2026 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 Subdivision Regulations, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, on June 6, 2024, 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 TCP1-016-2024 and APPROVED Preliminary Plan of Subdivision 4-24009 for one lot, 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. Show and label the limits of the existing storage yard and any structures related to its use as "Existing, to be removed."

2. Development of this site shall be in conformance with Stormwater Management Concept Plan 35323-2023-SDC and any subsequent revisions.
3. Prior to approval, the final plat of subdivision shall include the following:
 - a. The granting of public utility easements along the public rights-of-way, in accordance with the preliminary plan of subdivision.
 - b. The dedication of right-of-way along Lydell Road (P-218), in accordance with the preliminary plan of subdivision.
4. In conformance with the 2009 *Approved Countywide Master Plan of Transportation* and the 2018 *Approved Greater Cheverly Sector Plan*, the applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities, and shall provide a site plan at the time of building permit application which displays the details, location, and extent of the following facilities:
 - a. A 10-foot-wide side path along the subject property's frontage of Lydell Road (P-218), unless modified by the operating agencies with written correspondence.
 - b. Direct pedestrian connections from Lydell Road (P-218) to the building entrance.
 - c. Inverted U-style, or similar style bicycle parking racks at locations not more than 50 feet from the entrances to all buildings.
 - d. Continental style crosswalk and Americans with Disabilities Act compliant curb ramps at the site access.
5. Development of this subdivision shall be in conformance with the approved Type 1 Tree Conservation Plan, TCP1-016-2024. 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 TCP1-016-2024, 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, Prince George's County Planning Department.”
6. Prior to the issuance of permits for this project, a Type 2 tree conservation plan shall be approved.

7. Prior to the issuance of the first permit, the final erosion and sediment control plan shall be submitted. The limits of disturbance shall be consistent on all plans.
8. Prior to issuance of the first permit, the final location of stormwater management (SWM) features on the Type 2 tree conservation plan shall be reflective of the approved stormwater management concept plan. The limits of disturbance shall be consistent on all plans.

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 south side of Lydell Road, approximately 850 feet east of its intersection with MD 201 (Kenilworth Avenue). The property totals 1.90 acres and consists of one lot, recorded as Lot 14, Block B in the Prince George's County Land Records in Plat Book WWW 55, page 77, approved on February 24, 1965, on a plat titled "Blocks A and B, Kenilworth Interchange Industrial Park." The property is subject to the *2018 Approved Greater Cheverly Sector Plan* (sector plan).

The property is in the Industrial, Employment (IE) Zone. However, this preliminary plan of subdivision (PPS) was reviewed under the applicable provisions of the Prince George's County Zoning Ordinance and Prince George's County Subdivision Regulations effective prior to April 1, 2022 (the "prior Zoning Ordinance" and the "prior Subdivision Regulations"), pursuant to Section 24-1903(a) of the Subdivision Regulations. Under the prior Zoning Ordinance, the site was in the Light Industrial (I-1) Zone, which is used for the analysis contained herein.

Lot 14, Block B, is partially wooded with approximately half the site having been cleared and currently being used as a storage yard, for which permits could not be located. Therefore, the subject PPS was evaluated as if the site was undeveloped (vacant), given that no prior permits could be verified. The clearing which has occurred is subject to woodland conservation requirements, as discussed further in the Environmental finding. This property is the subject of a prior PPS, 12-2829, and a final plat approved prior to 1970. All existing structures on the site are proposed to be razed. This PPS evaluates resubdivision of the property into one lot for 15,000 square feet of industrial development.

This 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 23, 2024. 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), this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2024-011.

3. **Setting**—The site is located on Tax Map 58, Grid E-2, and is within Planning Area 69. The subject property is within an existing developed industrial park, and surrounding properties to the site are also within the IE Zone (formerly within the I-1 Zone). Lydell Road provides primary access to the industrial park and abuts the site to the north.
4. **Development Data Summary**—The following information relates to the subject PPS and the evaluated development.

	EXISTING	EVALUATED
Zones	IE	I-1
Use(s)	Vacant Industrial	Industrial
Acreage	1.90	1.90
Lots	1	1
Parcels	0	0
Dwelling Units	0	0
Subtitle 25 Variance	No	No
Variation	No	No

The subject PPS 4-24009 was accepted for review on March 20, 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, which held a meeting on April 12, 2024, at which comments were provided to the applicant. Revised plans were received on April 24, 2024, which were used for the analysis contained herein.

5. **Previous Approvals**—The property was subject to PPS 12-2829, which subdivided 34 lots and two blocks for industrial development, as recorded in a final plat of subdivision titled “Blocks A and B, Kenilworth Interchange Industrial Park”, recorded in the Prince George’s County Land Records in Plat Book WWW 55, page 77. This PPS is required for the resubdivision of Lot 14, Block B, for 15,000 square feet of industrial development, pursuant to Section 24-111(c) of the prior Subdivision Regulations. The property shall, therefore, be redesignated as Lot 23, Block B, which is the next sequential lot number available in Block B of the existing subdivision.

The site also has a previous Type 2 Tree Conservation Plan, TCP11-104-01, that was approved on January 31, 2002 for the prior proposed development of a warehouse. This development never came to fruition, however, as the property owner cancelled the initial fine grading permit application, 28766-2002-G, with the Prince George’s County Department of Permitting Inspections and Enforcement (DPIE) on November 1, 2005. Prior to the permit being cancelled, the off-site mitigation required by the approved Type 2 tree conservation plan (TCP2) at that time was provided. This new PPS requires compliance with current applicable regulations, as discussed further in the Environmental finding.

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

The subject property is located in the Established Communities Growth Policy Area of Plan 2035. “Plan 2035 classifies established communities as existing residential neighborhoods and commercial areas served by public water and sewer outside of the Regional Transit Districts and Local Centers. Established communities are most appropriate for context-sensitive infill and low-to medium-density development. 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

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. The sector plan recommends Employment/Industrial land use on the subject property (Map 9, page 40). Pursuant to Section 24-121(a)(5), the proposed use conforms with the sector plan recommended land use for the subject property.

Sectional Map Amendment/Zoning

On November 29, 2021, the District Council approved CR-136-2021, the Countywide Map Amendment (CMA), which reclassified the subject property from the I-1 Zone to the IE Zone effective April 1, 2022. However, this PPS was reviewed pursuant to the prior 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 the municipality having approval authority. A SWM Concept Approval Letter (35323-2023-SDC) and associated plan were submitted with this PPS. DPIE issued the approval on March 11, 2024, and it is valid until March 11, 2027. The SWM plan shows a rainwater harvesting facility and a submerged gravel wetland facility being proposed to treat stormwater for the entire project on-site.

Development of the site, in conformance with the SWM concept plan 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**—In accordance with Section 24-134(a) of the prior Subdivision Regulations, this PPS is exempt from mandatory dedication of parkland requirements because it consists of nonresidential development.
9. **Transportation**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), sector plan, and prior Subdivision Regulations to provide the appropriate transportation facilities.

MPOT AND SECTOR PLAN CONFORMANCE

Master Plan Right-of-Way

The subject site has frontage on Lydell Road (P-218), which is designated as a primary roadway with an ultimate right-of-way (ROW) width of 80 feet, or 40 feet from centerline. The PPS accurately displays the master plan ROW and proposed road dedication of approximately 0.01 acre along Lydell Road, to accommodate additional traffic that will be generated by the subdivision.

Master Plan Pedestrian and Bike Facilities

The MPOT recommends a side path along Lydell Road.

The MPOT provides policy guidance regarding multimodal transportation as well as the Complete Streets element recommends how to accommodate infrastructure for people walking and bicycling.

The MPOT includes the following policies related to the subject development:

Policy 3: Small area plans within the Developed and Developing Tiers should identify sidewalk retrofit opportunities to provide safe routes to schools, pedestrian access to mass transit, and more walkable communities (page 10).

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* (page 10).

Policy 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles (page 10).

The sector plan also recommends the following strategies regarding pedestrian and bicycle infrastructure:

TM 1.1 Ensure that all street improvement, development, and redevelopment projects in the sector plan area follow Complete Streets principles and integrate active transportation improvements which meet Americans with Disabilities Act (ADA) standards into the street design. Transportation facilities should emphasize multimodal travel connecting all parts of the sector plan area (page 60).

TM 1.2 Promote agency and developer collaboration toward building active and accessible transportation amenities, such as sidewalks, bicycle facilities, high-visibility crosswalks, mid-block crossings (when appropriate), ADA-compliant curb ramps, pedestrian scaled lighting, and bicycle parking (page 60).

This PPS includes a side path and crosswalk at the site access along Lydell Road. The area of dedication for right-ROW is adequate to support the proposed pedestrian facility. The striped crosswalk shall include Americans with Disabilities Act (ADA) accessible ramps. Bicycle

parking shall also be provided no more than 50 feet from the building entrance, in accordance with the recommendations of the 2012 American Association of State Highway and Transportation Officials and the 2015 Association of Pedestrian and Bicycle Professionals, Essentials of Bicycle Parking. The evaluated and required pedestrian and bicycle facilities accommodate multimodal use and support the goals and intent of the MPOT and master plan.

Access and Circulation

This PPS shows that the site will be served by a single access point. A truck turning plan was submitted demonstrating that there are no conflicts with the vehicular movements on site. The layout of the site is triangular in shape with the widest area being located roughly in the center. The location of the building near the center of the site will allow for separated loading operations and parking areas at the north and south of the building, which will reduce conflicts between different vehicle classifications. A single-wide drive aisle will provide the necessary vehicular circulation to access the southern portion of the site. Based on the separate loading area, parking lot, and striped crosswalk at the site entrance, the pedestrian and vehicular circulation for the proposed development will be sufficient.

Based on the findings presented above, transportation facilities will exist to serve this subdivision, as required under the prior Subdivision Regulations, 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 an element regarding public facilities (page 83), which provides the overall vision for the provision of public facilities:

“Public facilities planning in the sector plan area seeks to enhance the quality of life of residents and employees by ensuring adequate public services to meet current and future needs. The Public Facilities Element includes policies and strategies that address public schools, libraries, police, fire and rescue, and parks and recreation. Recognizing that each of these service areas is integral to maintaining a high standard of living and economic competitiveness in the area, the sector plan seeks to provide guidance to ensure effective coordination between multiple implementing agencies and support community livability.”

The development evaluated under this PPS will not impede achievement of the above-referenced vision, policies, or specific facility improvements in the sector plan. The analysis provided with approved Certificate of Adequacy ADQ-2024-011 illustrates that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the development. As discussed below, water and sewer service are also adequate to serve the development. There are no master-planned police, fire and emergency medical service facilities, public schools, parks, or libraries proposed on the subject property.

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades, 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, which 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 a minimum of 10 feet wide along both sides of all public ROWs. The site abuts Lydell Road to the north. The required PUE is reflected on the PPS, along the public ROW.

12. **Historic**—The sector plan contains goals and policies related to historic preservation (pages 91 through 95). 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 recommended. 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 Number	Authority	Status	Action Date	Resolution Number
NRI-021-10	N/A	Staff	Approved	2/1/2011	N/A
N/A	TCPII-104-01	Staff	Approved	1/31/2002	N/A
NRI-021-10-01	N/A	Staff	Approved	9/12/2023	N/A
4-24009	TCP1-016-2014	Planning Board	Approved	6/6/2024	2024-049

Grandfathering

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

Site Description

The 1.9-acre site is partially wooded and partially developed on the southern portion of the property. A review of the approved Natural Resources Inventory Plan (NRI-021-10-01) indicates

that the 100-year floodplain is located along the southern property line. There are no streams or wetlands located on-site. According to information obtained from 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. This site is located within the Lower Beaverdam Creek of the Anacostia River watershed.

ENVIRONMENTAL CONFORMANCE WITH APPLICABLE PLANS

Plan 2035

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

Sector Plan Conformance

The sector plan contains goals, policies, and strategies in the Environmental Infrastructure section. The following policies have been determined to be applicable to the current project. The text in **BOLD** is the text from the sector plan, and the plain text provides comments on the plan's conformance.

Policy NE 1: Restore and enhance water quality in the Lower Beaverdam Creek subwatershed, and other areas that have been degraded, through stormwater management and water resource protection (page 68).

An approved SWM concept plan and approval letter were submitted with the application showing a rainwater harvesting facility and a submerged gravel wetland facility proposed to treat stormwater for the entire project on-site. SWM is reviewed by DPIE, and sediment and erosion control measures are reviewed by the Prince George's County's Soil Conservation District (PGCSCD).

Policy NE 2: Reduce impervious surfaces and increase tree canopy within the sector plan area. (page 68)

The use of conservation landscaping techniques, including the use of native species for on-site planting, is encouraged to reduce water consumption and the need for fertilizers or chemical applications. Compliance with the Tree Canopy Coverage Ordinance (Subtitle 25 Division 3) must be addressed at the time of permit review and shown on the landscape plan.

Policy NE 3: Implement Environmental Site Design (ESD) techniques on-site and reduce overall energy consumption. (page 71)

An approved SWM concept plan and approval letter showing environmental site design implementation was submitted with this application. The plan shows a rainwater harvesting facility and a submerged gravel wetland facility to treat stormwater for the entire project on-site. SWM will continue to be reviewed by DPIE.

The use of green building techniques and energy conservation techniques is encouraged and implemented to the greatest extent possible.

Policy NE 4: Address adverse impacts of transportation-related noise. (page 71)

This PPS was evaluated for nonresidential development, which is not regulated for receiving noise. Construction and operations on the site will be required to comply with noise emitting requirements of the County Code, which is enforced through DPIE.

Conformance with the Green Infrastructure Plan

The 2017 *Countywide Green Infrastructure Plan* (Green Infrastructure Plan) was approved with the adoption of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017), on March 7, 2017. According to the approved Green Infrastructure Plan, this site contains regulated and evaluation areas. The following policies and strategies are applicable to this PPS. The text in **BOLD** is the text from the Green Infrastructure Plan and the plain text provides findings 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. (page 49)

Strategies

- 1.1 **Ensure that areas of connectivity and ecological functions are maintained, re-stored, 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.**

The property is within the Lower Beaverdam Creek of the Anacostia River watershed and is not within a Tier II catchment area. The site does not contain any regulated areas; however, the site is in an evaluation area. There are no streams or wetlands on-site; however, there is a 100-year floodplain along the southern property line that runs into an off-site stream. Currently the partially developed site has no stormwater treatment. The development evaluated under this PPS includes stormwater facilities that will treat the stormwater on this site. The current entrance to the site is a driveway through the floodplain area. This driveway will be removed, and a stormwater outfall will be installed which will help restore the floodplain to its ecological function. SWM is reviewed by DPIE, and sediment and erosion control measures are reviewed by the PGCSCD. Sensitive species habitat is not identified on this site, and this area is not in a special conservation area.

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.**

There are no regulated areas of the green infrastructure network on this site. A Type 1 tree conservation plan (TCP1) was provided with this PPS showing that the woodland conservation requirement will be met using off-site credits and fee-in-lieu. The off-site credits have already been obtained under a prior approved TCP2 for this site.

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.**

No transportation-related impacts to the green infrastructure network are included with the subject 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 trail systems 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.**

There are no regulated environmental features (REF) on-site. However, the site does have a 100-year floodplain, which will be placed in an easement.

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

The approved concept plan submitted with this PPS shows use of a submerged gravel wetland and a rainwater harvesting facility. The TCP2 shall match the stormwater concept.

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.**

A TCP1 was provided with this PPS and shows that the woodland conservation requirement will be met using off-site credits and fee-in-lieu. Tree canopy coverage requirements will be evaluated at the time of permit.

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.**

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.**

A TCP1 was provided with this PPS, which shows that the woodland conservation requirement will be met using off-site credits and fee-in-lieu. Tree canopy coverage requirements will be evaluated at the time of permit. Green space is encouraged to serve multiple eco-services.

ENVIRONMENTAL REVIEW

Natural Resources Inventory/Existing Conditions

Approved NRI-021-10-01 was submitted with this PPS. The site is partially wooded and contains a contractors storage yard. There are no REF such as steep slopes, streams, wetlands, and their

associated buffers. However, the 100-year floodplain does run along the southern property line. Currently access to the site is a driveway that runs through the floodplain. No additional information is required for conformance to the NRI.

Woodland Conservation

The site is 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 and contains more than 10,000 square feet of woodland. A Type 1 Tree Conservation Plan (TCP1-016-2024) was submitted with this application.

TCPII-104-01 was approved for the site on January 31, 2002. The worksheet on the TCP2 showed that the site contained 1.89 acres of woodland in net track and 1.83 acres of woodlands to be cleared. The woodland requirement for the TCP2 was 0.90 acre, which was to be met by 0.90 acre of off-site woodland mitigation credits. A grading permit (28766-2002) was obtained from the County for a proposed warehouse project on this site. This permit was later canceled, and the warehouse was not built. The 0.90 acre of off-site woodland conservation credits was obtained from woodland mitigation bank TCPII-15-97 as part of the grading permit. No clearing occurred with the grading permit; however, the imagery layer in PGAtlas shows that sometime between 2009 and 2011 the site was cleared for the contractor's storage yard that is currently on-site. Permit(s) for this could not be found. To address this clearing, this TCP1 worksheet calculations shall be based on the site being entirely wooded.

Based on the TCP1 submitted with this application, the site is 1.90 acres, contains 1.90 acres of woodland, with 1.86 acres in the net tract and 0.04 acre in the floodplain, and has a woodland conservation threshold of 0.28 acre (15 percent). The woodland conservation worksheet shows the removal of 1.90 acres of woodland, for a woodland conservation requirement of 0.99 acre. According to the TCP1 worksheet, the requirement is to be met with 0.90 acre of off-site woodland conservation credits, which have already been obtained from a prior approval, and 0.09 acres in fee-in-lieu.

Section 25-122(c)(1) prioritizes methods to meet woodland conservation requirements. The applicant submitted a statement of justification (SOJ) dated February 22, 2024, demonstrating why the woodland conservation requirements could not be met on-site. The only public ROW that abuts this property is Lydell Road, which is the sole legal access to the property. The elevation on the property rises and then falls towards the back of the property. As a result, development of the property will require grading to allow the driveway on the property to meet the existing grade of Lydell Road, and the site must be graded to allow for the placement of the building and its infrastructure, this can only be achieved by clearing the entire site. As mentioned above the site had a prior approved TCP2, which allowed the entire site to be cleared, and the woodland conservation requirement was met with obtaining off-site site credits at an approved tree mitigation bank.

Specimen Trees

There are no specimen trees on-site.

Preservation of Regulated Environmental Features/Primary Management Area

The site does not contain REF such as streams, stream buffers, wetlands, wetland buffers, and steep slopes. However, the 100-year floodplain runs along the southern property line and has been placed in the primary management area (PMA).

Section 24-130(b)(5) of the 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 regulated environmental features in a natural state to the fullest extent possible, consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.”

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

The property, as delineated in the approved NRI, includes the existing 100-year floodplain mapped along the southern property line. The applicant submitted a statement of justification (SOJ) to impact an area totaling approximately 0.04 acre of the floodplain. The impacts requested to the PMA are for removal of the existing concrete entrance that is crossing the floodplain, and for installation of a submerged gravel wetland outfall, as well as, the extension of a sewer line in the floodplain.

After evaluating the applicant’s SOJ, the proposed impacts of the PMA are approved. The PMA impacts are considered necessary for the orderly development of the subject property. These impacts cannot be avoided because they are required by other provisions of the County and state codes. The plan shows the preservation, restoration, and enhancement of the remaining areas of the PMA by removing the existing concrete entrance in the floodplain and treating the property’s stormwater on-site.

Soils

The predominant soils found to occur according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey include, Christiana-Downer-Urban land

complex, Christiana-Downer complex, Urban land-Issue complex, Urban land-Russett-Christiana complex. According to available mapping information, unsafe soils containing Marlboro clay do not occur on this property; however, Christiana clay does exist. A geotechnical investigation report dated March 14, 2024, was submitted. The Maryland-National Capital Park and Planning Commission's geotechnical planner reviewed the report and the slope analysis indicated that the factor of safety is greater than 1.5. The report was carried out in accordance with the County's requirements.

14. **Urban Design**—The industrial development of a warehouse is permitted by right in the I-1 Zone. The regulations and requirements of the prior Zoning Ordinance apply to development in the I-1 Zone regarding landscaping, screening, buffering, fencing, and building setbacks. The development will be required to demonstrate conformance with the applicable requirements of the prior Zoning Ordinance at the time of building permit review including, but not limited to, the following:

- Section 27-473 Uses Permitted for the I-1 Zone.
- Section 27-474 Regulations for the I-1 Zone.
- Part 11 Off Street Parking.
- Part 12 Signs.

Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require a grading permit or propose 5,000 square feet or greater of gross floor area or disturbance. The subject property is required to provide a minimum of 10 percent of the gross tract area in TCC. Conformance with this requirement will be evaluated at the time of permit review.

Landscape Manual Requirements

The development is subject to the provisions of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Conformance will be evaluated pursuant to the following requirements of the Landscape Manual at time of permit review, including, but not limited to:

- Section 4.2 Requirements for Landscape Strips Along Streets;
- Section 4.3 Parking Lot Requirements;
- Section 4.4 Screening Requirements;
- Section 4.7 Buffering Incompatible Uses;
- Section 4.9 Sustainable Landscape Requirements;

15. **Community Feedback**—Written inquiry was received from two Prince George's County citizens, both neighbors living in the area of the subject PPS. Both inquiries were regarding the same matter, the possible clearing of approximately half the site without permit authorization and the general question of whether it would be taken into consideration during the review of this PPS. The site was evaluated as if it was never cleared and the woodland conservation requirements were applied accordingly, as described in the Environmental finding above. The Prince George's County Planning Department did not receive any other correspondence from the community regarding this PPS.

16. **Public Hearing**—Prior to opening the hearing for this case on June 6, 2024, the Planning Board entertained a request from Dan Smith, who signed up to speak in opposition, to continue the case to allow more time to review and investigate materials provided with the PPS application. The applicant's attorney, Thomas Haller, addressed Mr. Smith's concerns in rebuttal and David Warner, Principal Counsel for M-NCPPC, spoke to inform the Planning Board that the Planning Board's rules of procedure had been followed with regard to notification and publishing. The Planning Board, in turn, denied the request for a continuance.

When the evidentiary hearing for the case was subsequently opened by the Planning Board, staff provided their presentation, including findings for approval of impacts to the on-site PMA which were included in the back-up materials, and the applicant's attorney spoke to indicate the applicant's agreement with the findings and conditions laid out in the technical staff report. Mr. Smith then spoke in opposition of the case siting concerns that the floodplain delineation may not be accurate, and that the applicant has not been held liable for the previous unauthorized woodland clearing on the site. Staff and the applicant provided responses addressing the citizens' concerns which included the following:

- DPIE is the authority for enforcement of any grading or use violations. As part of any enforcement action, the applicant would be required to file the applications necessary to come into compliance with Code requirements. This PPS initiates the approval needed to come into Code compliance and to receive the necessary approvals for development of the site.
- The floodplain delineation and SWM concept are under the purview of DPIE and were approved. The PPS and TCP1 are reflective of the approved floodplain delineation, as required, in accordance with Section 24-129 of the prior Subdivision Regulations. Existing development is to be removed from the floodplain, and the area used for utility connection and SWM only, as also allowed in accordance with Section 24-129.

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.

* * * * *

PGCPB No. 2024-049


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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 Doerner, with Commissioners Washington, Doerner, and Bailey voting in favor of the motion, and with Commissioners Geraldo and Shapiro absent at its regular meeting held on Thursday, June 6, 2024, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of June 2024.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:JB:tr

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: June 17, 2024