

PGCPB No. 2023-133

File No. PPS-2022-041

R E S O L U T I O N

WHEREAS, A.B. Greene, LLC is the owner of a 0.98-acre parcel of land known as Parcel 101, said property being in the 3rd Election District of Prince George's County, Maryland, and being zoned Residential, Multifamily-48 (RMF-48); and

WHEREAS, on October 9, 2023, A.B. Greene, LLC filed an application for approval of a Preliminary Plan of Subdivision for one parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan PPS-2022-041 for Superior Martial Arts Center, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on December 14, 2023; and

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

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

WHEREAS, on December 14, 2023, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Type 1 Tree Conservation Plan TCP1-018-2023, APPROVED a Variance to Section 25-122(b)(1)(G), and APPROVED Preliminary Plan of Subdivision PPS-2022-041 for one parcel, subject to the following conditions:

1. Prior to signature approval, the preliminary plan of subdivision shall be revised to remove the specimen trees from the plan.
2. Development of the site shall be in conformance with Stormwater Management Concept Plan 28460-2022-00, and any subsequent revisions.
3. Prior to approval, the final plat of subdivision shall include:
 - a. The dedication of public right-of-way for MD 725 (Marlboro Pike), in accordance with the approved preliminary plan of subdivision.
 - b. The dedication of a 10-foot-wide public utility easement, along abutting public right-of-way MD 725 (Marlboro Pike), as delineated on the approved preliminary plan of subdivision.

4. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-018-2023). 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 (TCP1-018-2023) [or most recent revision], or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved tree conservation plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”

5. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan (TCP2) shall be approved. The following note shall be placed on the final plat of subdivision:

“This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and Folio reflected on the Type 2 Tree Conservation Plan, when approved.”

6. Prior to signature approval of the preliminary plan of subdivision, the Type I Tree Conservation Plan TCP1-018-2023 shall be revised as follows:

- a. Add the following note below the Specimen Tree Table: “This plan is in accordance with the following variance from the strict requirements of Subtitle 25, approved by the Planning Board on [ADD DATE], for the removal of Specimen Trees ST-1 through ST-4.”
- b. Correct the worksheet to show off-site conservation credits to be used, to meet the woodland conservation requirement, and not the use of a fee-in-lieu.
- c. Have the plans signed and dated by the qualified professional who prepared them.

7. Prior to approval of a building permit, conformance with the cross-access requirements of Sections 24-6207 and 27-6208 of the Zoning Ordinance shall be demonstrated or a waiver request shall be submitted for evaluation.

8. The site shall be designed to provide access to a shared driveway on Parcel 102, when it becomes available. Prior to approval of a building permit, if an easement agreement is executed to allow access from the subject site to a shared driveway on Parcel 102 and the shared driveway is completed, direct access to the subject site shall be denied along MD 725 (Marlboro Pike). If at the time a building permit is approved, and no easement agreement is executed or the shared access driveway is not completed, the subject site shall be allowed direct access to MD 725 and construction of the project may proceed, until final permits allowing use and occupancy of the property and structure are issued. Direct access along MD 725 shall be removed when an

easement agreement allowing access to the shared driveway is executed and construction of the shared access driveway is completed.

9. Prior to signature approval of the preliminary plan of subdivision (PPS), the PPS shall be revised to remove the word “temporary” from the description of the direct access to the site and to identify the access to the shared driveway as “substitute access, when it becomes available.”
10. In accordance with the 2009 *Approved Countywide Master Plan of Transportation* the applicant and the applicant’s heirs, successors and/or assignees shall provide the following facilities and show the facilities on the permit site plan, unless modified by the road operating agency with written correspondence.
 - a. A bicycle lane along the property’s frontage of MD 725 (Marlboro Pike),
 - b. A minimum 5-foot-wide sidewalk along the property’s frontage of MD 725.

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

1. The subdivision, as modified with conditions, meets the applicable legal requirements of Subtitles 24 and 27 of the Prince George’s County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on the north side of MD 725 (Marlboro Pike), approximately 225 feet west of its intersection with US 301 (Robert Crain Highway) and is 0.98 acre. The subject property is comprised of one parcel, recorded by deed in Prince George’s County Land Records in Liber 48278 folio 297. The property is within the Residential, Multifamily-48 (RMF-48) Zone. In accordance with Section 24-4503 of the Prince George’s County Subdivision Regulations, this preliminary plan of subdivision (PPS) is supported by and subject to approved Certificate of Adequacy ADQ-2022-057. The site is subject to the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (master plan), applicable provisions of Subtitles 24 and 27 of the County Code, and other applicable plans, as outlined herein. This PPS was reviewed, in accordance with Section 24-1401 of the Subdivision Regulations, for subdivision of one parcel for the development of 9,500 square feet of commercial development. Access to the site is proposed via a site access driveway directly to MD 725, with a substitute access via a shared driveway located on the abutting property to the west, when it becomes available. A private access easement will be required to access the subject property through the shared driveway to the west. The site is currently developed with one single-family detached dwelling, which is to be razed.

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

3. **Setting**—The property is located on Tax Map 93 in Grid B4 and is within Planning Area 79. The properties abutting the subject site to the east consist of commercial development. The properties north and west consist of vacant land, approved for mixed-use development. The abutting properties to the east, north, and west are located in the RMF-48 Zone. The right-of-way (ROW) of MD 725 abuts the subject site to the south, and properties beyond consist of commercial development within the Industrial, Employment (IE) Zone.
4. **Development Data Summary**—The following information relates to the subject PPS and the evaluated development.

	EXISTING	EVALUATED
Zone	RMF-48	RMF-48
Use(s)	Residential	Commercial
Acreage	0.98	0.98
Lots	0	0
Parcels	1	1
Dwelling Units	1	0
Gross Floor Area	0	9,500 sq. ft.

Pursuant to Section 24-3305(e) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee meeting on October 27, 2023. Revised plans were submitted on November 8, 2023, which were used for the analysis contained herein.

5. **Previous Approvals**—The property was previously subject to Conceptual Site Plan CSP-19001, which was approved by the Prince George’s County Planning Board (PGCPB Resolution No. 2020-128) on July 23, 2020. The CSP approved 1,200–75,000 square feet of commercial development, 5,000–30,000 square feet of office development, and 100–265 multifamily dwelling units on 20.98 acres. The CSP, however, was approved pursuant to the prior Zoning Ordinance, and this PPS was filed pursuant to the current Zoning Ordinance and Subdivision Regulations, for which a CSP is no longer applicable. Notwithstanding, the proposed development is not inconsistent with, nor does it impede, the achievement of the development envisioned under CSP-19001.

The overall site was approved with CSP-19001 to have one shared access to MD 725 for the nonresidential development area due to existing lane configurations, proximity on the MD 725 and US 301 intersection, and alignment of existing access driveways along MD 725. The properties west and north of the subject site comprise the other land areas included in the CSP, which have an approved PPS (4-21010) that carried forward the shared access requirement for a singular driveway access to MD 725 and which was conditioned to provide an easement to the subject property for the use of said driveway. This easement has not yet been established, because final plats have not yet been filed pursuant to PPS 4-21010. However, the conditions of approval contained herein maintain the provision for a shared access driveway from MD 725 to support the subject site and the remaining property covered under CSP-19001, at the appropriate stage of

development. The access and circulation for the subject property is discussed further in the Transportation finding of this resolution.

6. **Community Planning**—Pursuant to Section 24-4101(b)(1) of the Subdivision Regulations, consistency with the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the master plan are evaluated, as follows:

Plan 2035

Plan 2035 places the subject property in the Established Communities Growth Policy Area. "Plan 2035 classifies existing residential neighborhoods and commercial areas served by public water and sewer outside of the Regional Transit Districts and Local Centers, as Established Communities. Established communities are most appropriate for context-sensitive infill and low-to medium-density development" (page 20). The subject property is proposed for nonresidential development which abuts and is adjacent to existing commercial development and, as such, is found to be context-sensitive and consistent with Plan 2035.

Master Plan Conformance

The master plan recommends mixed-use land uses on the subject property. Table 7: Future Land Use Map Designations states that mixed-use is for "[a]reas of mixed residential, commercial, employment, and institutional uses. Residential uses are expected to dominate overall land use in the designated area and may include a range of unit types" (page. 40). The subject site itself does not propose a mix of uses. Pursuant to Section 24-4101(b)(3) of the Subdivision Regulations, the uses permitted by the County Zoning Ordinance supersede the recommendations set forth in the master plan. On November 29, 2021, the District Council approved CR-136-2021, the Countywide Sectional Map Amendment, which reclassified the subject property from the Mixed Use - Transportation Oriented Zone to the RMF-48 Zone, effective April 1, 2022, which does not require a mix of uses. However, the subject property was part of a larger site, anticipated for mixed-use development, approved under CSP-19001. The residential components of the development abut the subject site and were further approved under 4-21010 and Detailed Site Plan DSP-22019. Therefore, the proposed development of the subject property does not impede achievement of the master plan recommendation for mixed-use development.

7. **Stormwater Management**—Pursuant to Section 24-4303(b) of the Subdivision Regulations, an application for a major subdivision must include an approved stormwater management (SWM) concept plan. SWM Concept Plan 28460-2022-00, approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), was submitted with this PPS. The SWM concept plan shows the use of an underground storage facility to treat water before it leaves the site.

Development of the site, in conformance with SWM concept approval and any subsequent revisions, to ensure that no on-site or downstream flooding occurs, satisfies the requirements of Section 24-4303 and Section 24-4403 of the Subdivision Regulations.

8. **Parks and Recreation**—In accordance with Section 24-4601(a) of the Subdivision Regulations, the subject PPS is exempt from mandatory dedication of parkland requirements because it consists of non-residential development.

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

Previous Approvals

CSP-19001

The relevant transportation conditions of approval related to the subject PPS are listed below:

2. **Prior to acceptance of the preliminary plan of subdivision for this site, the applicant shall:**
- e. **Consider relocating the eastern access driveway to MD 725 (Marlboro Pike) to the west, beyond the termination of the merge lane.**

The applicant is proposing to use the access driveway beyond the termination of the merge lane on MD 725. However, access from this driveway would require an access easement. As stated in Finding 5 of this resolution, CSP-19001 encompassed a larger area to the north and west. The driveway approved with CSP-19001 will be located on the parcel abutting the subject site to the west, currently known as Parcel 102. This driveway was approved as a shared access for the entire development, including the subject property. However, Parcel 102 as well as the rest of the area included in CSP-19001, have since been separated from the subject property via the Marlboro Gateway PPS 4-21010 and DSP-22019. Since the applicant does not have control over the construction of the off-site driveway, a direct access driveway from MD 725 to the subject property is approved. This access shall be removed when an easement agreement allowing access to the shared driveway is executed and the shared driveway is constructed. Further discussion on the access locations is provided below.

Master Plan Right of Way

This development fronts on the master plan ROW of MD 725, an ultimate two- to four-lane primary road (P-608), that is currently built with two lanes, within a variable width ROW. The master plan recommends widening MD 725, up to four lanes, in the vicinity of the proposed development, within 70 feet of the ROW. The PPS shows dedication of 893 square feet of ROW along MD 725, which meets the master plan recommendations.

Master Plan Pedestrian and Bike Facilities

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

Policy 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.

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 circulation plan submitted with this PPS shows that the site is proposed to be improved with a series of connected pedestrian facilities, as well as a dedicated unmarked bike lane along the subject property's frontage of MD-725; both of which are consistent with the master plan recommended policies. The portion of proposed ROW dedication contains the entirety of the sidewalk proposed along the frontage of MD-725.

Zoning Ordinance Development Standards – Access and Circulation Section 27-6204 of the Prince George's County Zoning Ordinance provides guidance for the review of PPS development applications. In addition, Section 27-6200 provides specific requirements relevant to the subject PPS, as listed below:

Section 27-6204 Circulation Plan or Site Plan Required

Development applications shall include a circulation plan (unless a site plan meeting the requirements of this Section is submitted) that demonstrates how the development follows the requirements of Sections 27-6205 through 27-6208.

The applicant submitted a circulation plan that demonstrates the requirements for this section. This parcel was included within the boundary of CSP-19001, as mentioned above. The adjacent parcels received approval of the Marlboro Gateway PPS 4-21010 and DSP-22019. As a condition of approval for DSP-22019, Marlboro Gateway is required to provide access to the subject parcel from Parcel 102. The site plan provided with this PPS proposes direct access from MD 725, as well as a substitute shared access driveway from Marlboro Gateway.

The permanent/long-term access to the subject site should be provided from the planned access driveway to Marlboro Gateway. However, at this time, there is no timeline for development of the adjacent site. Based on the timing of development, the direct-access driveway along MD 725 is approved, until access is available from the adjacent development. When the planned access to Marlboro Gateway is constructed and an easement agreement has been executed, the direct access along MD 725 shall be removed, providing a single point of access to the subject site via the shared driveway approved with PPS 4-21010 and DSP-22019. The shared access will allow for vehicular

and pedestrian connectivity to adjacent developments as well as limiting the number of access driveways along MD 725, which is consistent with Condition 2e of CSP-19001 and Condition 4c of 4-21010 for Marlboro Gateway. The PPS labels the direct access to MD 725 as “temporary,” and the shared driveway from Marlboro Gateway as “Proposed Site Access.” Prior to signature approval of the PPS, the applicant shall revise the PPS to remove the word “temporary” from the description of the direct access to the site and label the access to the shared driveway as “substitute access, when it becomes available.”

Section 27-6206 Vehicular Access and Circulation

(e) Cross-Access

(2) Cross-Access Between Adjoining Developments

To encourage shared parking and minimize access points along streets, new development, other than industrial development, in the Transit-Oriented/Activity Center base and PD zones and Nonresidential base zones shall comply with the following standards:

- (A) The internal vehicular circulation system shall be designed and constructed to provide vehicular cross-access between the development’s vehicular use areas and those on adjoining parcels containing a nonresidential or mixed-use development, or to the boundary of adjoining vacant land in a Transit-Oriented/Activity Center base or PD zone or a Nonresidential zone (see Figure 27-6206(e)(2): Cross-Access Between Parking Areas of Adjoining Developments).**
- (B) The Planning Director or review body deciding a parent application may waive or modify the requirement for vehicular cross-access if the applicant clearly demonstrates that such cross-access is impractical or undesirable due to the presence of topographic conditions, natural features, or safety factors.**
- (C) Easements allowing cross-access to and from lands served by a vehicular cross-access, along with agreements defining maintenance responsibilities of landowners, shall be recorded in the Land Records of Prince George’s County before record plat or prior to the issuance of a building permit for the development.**

Section 27-6206(e)(2) requires a new development located within a Transit-Oriented/Activity Center Base Zone, Planned Development (PD) Zone or Nonresidential Base Zone to provide cross-access. The subject site is zoned RMF-48 and would not be required to provide cross-access. However, as discussed above, a single shared access driveway will be used, as approved for the Marlboro Gateway development.

Section 27-6207 Pedestrian Access and Circulation

(b) Pedestrian Connectivity

(2) Cross-Access Between Adjoining Developments

All new multifamily, townhouse, nonresidential, and mixed-use development shall comply with the following standards:

- (1) The internal pedestrian circulation system shall be designed to allow for pedestrian walkway cross-access between the development's buildings and parking areas and those on adjoining lots containing a multifamily, townhouse, nonresidential, or mixed-use development, or to the boundary of adjoining vacant land zoned to allow multifamily residential, nonresidential, or mixed-use development (including land in the Residential, Transit-Oriented/Activity Center, and Nonresidential base and PD zones).**
- (2) The Planning Director may waive or modify the requirement for pedestrian cross-access where the applicant clearly demonstrates that such cross-access is impractical or infeasible due to police concerns about through-traffic routes complicating law enforcement, Environmental Site Design requirements, or the presence of any of the following at the point(s) where through-connections would otherwise be required: topographic conditions, natural features, visual obstructions or parking space locations that create traffic hazards, or the existence of mature or protected trees.**

The circulation plan provided by the applicant shows a pedestrian connection to the adjoining property, which is found to be acceptable. In addition, the construction of a sidewalk along the site's entire frontage is proposed and will tie in to existing and future sidewalks along MD 725. This will create a continuous

network of sidewalks and provide for separation of pedestrians and vehicles along MD 725.

Section 27-6208. Bicycle Access and Circulation

(b) Bicycle Connectivity Between Developments

All new multifamily, townhouse, nonresidential, and mixed-use development shall comply with the following standards:

- (1) Any internal bicycle circulation system shall be designed and constructed to provide bicycle cross-access between it and any internal bicycle circulation system on adjoining parcels containing a multifamily, townhouse, nonresidential, or mixed-use development, or to the boundary of adjoining vacant land zoned to allow townhouse, multifamily, nonresidential, or mixed-use development (including land in the Residential, Transit-Oriented/Activity Center, and Nonresidential base and PD zones).**
- (2) The Planning Director may waive or modify the requirement for bicycle cross-access on determining that such cross-access is impractical or undesirable for typical bicyclists' use due to the presence of topographic conditions, natural features, or safety factors. Undesirable conditions shall be defined as those limiting mobility for bicycles as a form of transportation, such as steep grades, narrow connections bounded on both sides by walls or embankments, or limited visibility when straight-line connections are not achievable.**

The circulation plan does not include bicycle cross-access. However, the PPS does not set out final design elements for on-site development, which are provided on a site or permit plan. In addition, bicycles may share lanes with vehicles, where appropriate to do so. The applicant will need to provide details demonstrating the bicycle cross-access requirements are met or request a waiver for evaluation, at the time of building permit, in accordance with Section 27-6208(b)(2) of the Zoning Ordinance.

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

10. **Public Facilities**—This PPS was reviewed for conformance to the master plan, in accordance with Section 24-4101(b)(1) of the Subdivision Regulations. The master plan identifies goals for public facility adequacy in its vision and policy statement:

- **Provide residents of Subregion 6 needed public facilities in locations that serve existing and future populations.**
- **Ensure that all new public facilities will be constructed to LEED standards and existing buildings will be retrofitted to make them as energy efficient and sustainable as possible.**
- **Maintain the high level of service by providing essential equipment and professional training for personnel.**
- **Priority will be given to funding public facilities to support development in the Developing Tier.**

The proposed development will not impede achievement of the above-referenced goals. There are no police, fire and emergency medical service facilities, public schools, parks, or libraries proposed on the subject property. This PPS is further supported by ADQ-2022-057, which ensures adequate public facilities to support the proposed land use. The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities; however, none of its recommendations affect the subject site.

The subject property is located in Sustainable Growth Tier I and is served by public water and sewer, as required by Section 24-4404 of the Subdivision Regulations. Pursuant to Section 24-4405, the 2018 *Water and Sewer Plan* placed this property in the water and sewer Category 3, Community System. Category 3 comprises all developed land (platted or built) on public water and sewer and undeveloped land with a valid PPS approved for public water and sewer.

11. **Public Utility Easement**—Section 24-4401 of the Subdivision Regulations requires that, when utility easements are required by a public company, the subdivider shall include the following statement in the dedication documents recorded on the final plat:

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

In accordance with Section 24-4205 of the Subdivision Regulations, all roads, public or private, shall have a public utility easement (PUE) at least 10 feet in width. The PUE shall be located outside the sidewalk, where a sidewalk is constructed or if the Subdivision Regulations or Subtitle 27 require a sidewalk, and shall be contiguous to the ROW. The subject site has frontage along the public ROW of MD 725 and the PPS depicts the required 10-foot-wide PUE, contiguous to the ROW.

12. **Historic**—The master plan contains goals and policies related to historic preservation (pages 161-174). However, these are not specific to the subject site or applicable to the proposed development. A Phase I archeological survey was completed on the subject property. No sites were identified, and no further work was recommended. The house at 15500 Marlboro Pike was

documented on a Maryland Inventory of Historic Properties form, pages 79-107, in 1999. This house is related to the Proctor family, members of whom were enslaved on a nearby plantation. Members of the African American Simmons family were living in the house by the 1930s. One member of the family, James L. Simmons, Jr., was killed at Normandy on D-Day. 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 have been reviewed for the subject site:

Development Review Case	Associated Tree Conservation Plan or Natural Resource Inventory	Authority	Status	Action Date	Resolution Number
N/A	NRI-198-2022	Staff	Approved	1/6/2023	N/A
PPS-2022-041	TCP1-018-2023	Planning Board	Approved	12/14/2023	2023-133

Plan 2035

The site is located within Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map, as designated by Plan 2035.

Master Plan Conformance

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

Policy 1: Protect, preserve, and restore the identified green infrastructure network and areas of local significance within Subregion 6 in order to protect critical resources and to guide development and mitigation activities.

Strategies:

- 1. Protect priority areas that will meet multiple protection objectives such as those related to green infrastructure, the priority preservation area, and the Patuxent River Rural Legacy Program.**
- 2. Protect primary corridors (Patuxent River, Charles Branch, Collington Branch, Piscataway Creek, Mattawoman Creek, and Swanson Creek) during the review of land development proposals to ensure the highest level of preservation and restoration possible, with limited impacts for essential development elements. Protect secondary corridors to restore and enhance environmental features, habitat, and important connections.**
- 3. Preserve and connect habitat areas to the fullest extent possible during the land development process.**

4. **Preserve or restore regulated areas designated in the green infrastructure network through the development review process for new land development proposals.**
5. **Protect portions of the green infrastructure network outside the primary and secondary corridors to restore and enhance environmental features, habitat, and important connections.**
6. **Evaluate land development proposals in the vicinity of SCAs to ensure that the SCAs are not negatively impacted and that green infrastructure connections are either maintained or restored.**

The development site is not located in a special conservation area but is near a primary corridor, Collington Branch, and contains evaluation areas designated in the 2017 *Countywide Green Infrastructure Plan* of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan).

Policy 2: Restore and enhance water quality in degraded areas and preserve water quality in areas not degraded.

Strategies:

1. **Protect and restore groundwater recharge areas such as wetlands and the headwaters areas of streams and watersheds.**
3. **Require retrofitting of locations without stormwater management or with poorly performing facilities as they are identified during the development review process.**
4. **Define and identify operations and activities that create stormwater management “hotspots” to adjust development and enforcement as necessary for pollution prevention.**
5. **Require private developers to perform stream corridor assessments where one has not already been conducted when development along stream corridors without completed assessments is proposed. Use the outcome of these assessments to guide restoration requirements upon which development approval will be contingent.**
7. **Require environmentally sensitive site design which includes limiting impervious surfaces and implementing best practices in on-site stormwater management to reduce the impact of development on important water resources.**

The proposed project is a re-development of the site and will comply with the state environmental site design requirements in the design and review of SWM facilities for the site. DPIE has determined that the ephemeral stream on-site shall be piped.

Policy 4: Protect, restore, and enhance the Chesapeake Bay Critical Area.

Strategies:

- 1. Ensure that the primary buffers and secondary buffers are protected and enforced to the fullest extent possible.**
- 2. Increase enforcement activities as needed within the critical area.**

The subject project is not located within the Chesapeake Bay Critical Area.

Policy 9: Reduce adverse noise impacts to meet acceptable state noise standards.

Strategies:

- 2. Provide for adequate setbacks for development exposed to existing and proposed noise generators and roadways of arterial classification or greater.**
- 3. Provide for the use of approved attenuation measures when noise issues are identified.**

At this time, the subject property is not proposed to be developed with a use subject to the regulatory noise requirements of Section 27-6810 of the Zoning Ordinance.

Green Infrastructure Plan Conformance

According to the Green Infrastructure Plan, there is an evaluation area on the northern portion of the subject site. Approximately 60 percent of the site is located in the evaluation area, with the remainder of the site outside of the green infrastructure area. The PPS and TCP1-018-2023, as reflected, meet the goals of the Green Infrastructure Plan and focus development outside of the most sensitive areas of the site.

ENVIRONMENTAL REVIEW

Natural Resources Inventory

Section 27-6802 requires an approved natural resources inventory (NRI) plan with PPS applications. A Natural Resources Inventory, NRI-198-2022, was approved on January 6, 2023, and was provided with this PPS. The site contains an ephemeral stream (that runs along the northern portion of the property) and four specimen trees. There are no regulated environmental features on-site. The TCP1 and the PPS show all the required information correctly, in conformance with the NRI.

Woodland Conservation

This site is subject to the provisions of the WCO and the Environmental Technical Manual (ETM) because this is a new PPS. TCP1-018-2023 was submitted with the subject PPS and requires minor revisions in order to be found in conformance with the WCO.

Based on the TCP1 submitted with this PPS, the site's gross area is 1.22 acres, containing 0.81 acre of woodland in the net tract. The site has a woodland conservation threshold of 0.24 acre (20 percent). The woodland conservation worksheet proposes the removal of 0.81 acres in the net tract area for a woodland conservation requirement of 0.63 acre. According to the worksheet, the requirement is proposed to be met with 0.63 acre of off-site woodland conservation mitigation credits. The forest stand delineation has identified four specimen trees on-site. This PPS includes approval for removal of the four specimen trees.

Section 25-122(c)(1) prioritizes methods to meet woodland conservation requirements. The applicant submitted a statement of justification on November 8, 2023, requesting approval of off-site woodland conservation, as reflected on the TCP1 worksheet. The applicant stated that on-site preservation cannot be fully utilized because of the proposed development. More specifically, after the construction of DPIE's required stormdrain enclosure of the ephemeral channel and the necessary Marlboro clay mitigation measures, there are no areas for woodlands to remain.

Technical revisions to the TCP1 are required and included in the conditions of approval of this PPS.

Specimen Trees

Section 25-122(b)(1)(G) requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved, and the design shall either preserve the critical root zone (CRZ) of each tree in its entirety or preserve an appropriate percentage of the CRZ in keeping with the tree's condition and the species' ability to survive construction as provided in the [Environmental] Technical Manual." The Code, however, is not inflexible.

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

A Subtitle 25 variance was submitted for review with this PPS. The approved NRI-198-2023 identifies four specimen trees on-site. The following analysis is a review of the request to remove four specimen trees.

The letter of justification requests the removal of four specimen trees identified as ST-1 through ST-4. The condition of trees proposed for removal ranges from poor to good. The TCP1 shows the location of the trees proposed for removal, for the development of the site, roadways, utilities, SWM, and associated infrastructure.

It should be noted that Specimen Tree ST-4, which is located on the property line, was previously approved for removal with PPS 4-21010 for the adjacent Marlboro Gateway property. However, because ST-4 is identified on the subject property, its removal requires approval with this PPS. Specimen Tree ST-4 is shown as Specimen Tree ST-33 on Marlboro Gateway's TCP1 (TCP1-011-2020).

Specimen Tree Variance SOJ Table						
ST-#	DBH	Common Name	Location	Rating	Impacted by Design Elements	Construction Tolerance
ST-1	53"	Silver maple	located adjacent to the existing dwelling	Poor	Removed for development.	Poor
ST-2	30"	Black Locust	Centrally located	Fair	Removed for proposed grading and fill.	Good
ST-3	40"	Tulip Poplar	Located next to the existing retaining wall	Good	Removed for storm drain installation	Poor
ST-4	47"	Sycamore	located on the northwestern property line	Good	Removed for proposed grading and construction of access road on the adjacent property	Medium

Variance Evaluation

The removal of four specimen trees requested by the applicant is approved, based on the findings below. Section 25-119(d) contains six required findings [text in **bold**] to be made before a variance from the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below in plain text:

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

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the four specimen trees located on-site. Those special conditions relate to the specimen trees themselves, such as their size, condition, species, and on-site location.

The four specimen trees are scattered throughout the site. The table above indicates the four specimen trees requested for removal for creating roadways, building footprints, SWM, circulation, and grading. The species proposed for removal are silver maple, black locust, tulip poplar, and sycamore. The condition ratings of these trees range from poor to good. The trees have poor to good construction tolerances; however, all species of the included specimen trees have limiting factors for their construction tolerance, specifically if significant impacts are proposed to the CRZ.

Specimen Trees ST-1 through ST-4 are integral to the developable portion of the site, for the construction of the building, for the creation of site entrance and parking needed within the site, and for construction of SWM facilities to detain and safely convey stormwater off-site.

Retention of these trees and protection of their respective CRZs would have a considerable impact on the proposed development by creating challenges for building siting and for adequate circulation and infrastructure through the site.

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

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

Based on the location and species of the specimen trees proposed for removal, retaining the trees, and avoiding disturbance to the CRZ of Specimen Trees ST-1 through ST-4, would have a considerable impact on the development potential of the property. If similar trees were encountered on other sites, they would be evaluated under the same criteria. These four specimen trees requested for removal are located within the developable parts of the site.

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

Not granting the variance to remove Specimen Trees ST-1 through ST-4 would prevent the project from being developed in a functional and efficient manner. This is not a special privilege that would be denied to other applicants. If other similar developments featured REF and specimen trees in similar conditions and locations, they would be given the same considerations during the review of the

required variance application. Other applicants, with similar circumstances, would receive the same approval.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The location of the trees and other natural features throughout the property is based on natural or intentional circumstances that long predate the applicant's interest in developing this site. In addition, to date, the applicant has not undertaken any construction on the site that would cause the need for the removal of the specimen trees with the proposed development.

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

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

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

Requirements regarding the SWM concept have been approved by DPIE. Erosion and sediment control requirements are reviewed and approved by the Soil Conservation District (SCD). Both SWM and sediment and erosion control requirements are to be met, in conformance with state and local laws, to ensure that the quality of water leaving the site meets state standards which are set to ensure that no degradation occurs. Granting this variance will require adherence to these standards.

The required findings of Section 25-119(d) are adequately addressed for the removal of Specimen Trees ST-1 through ST-4. The variance for removal of these four specimen trees is approved.

Soils

Section 24-4101(c)(1) of the Subdivision Regulations states that the Planning Board shall restrict or prohibit the subdivision of land found to be unsafe for development. The restriction or prohibition may be due to a) natural conditions, including but not limited to flooding, erosive stream action, high water table, unstable soils, severe slopes, or soils that are unstable either because they are highly erodible or prone to significant movement or deformation (Factor of Safety < 1.5), or b) man-made conditions on the land, including but not limited to unstable fills or slopes.

The predominant soils found to occur on-site according to the United States Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey, are Collington-Wist-

Urban land complex, Marr-Dodon complex, and Urban land-Collington-Wist complex. Christiana clays do not occur on or in the vicinity of this site, but Marlboro clay has been identified throughout the southern half of the project area.

Marlboro clay is known to be an unstable, problematic geologic formation. The presence of this formation raises concerns about slope stability and the potential for constructing buildings on unsafe land. A geotechnical report is required for the subject property in order to evaluate the areas of the site that are unsuitable for development without mitigation.

A geotechnical report, titled Proposed Martial Art Center, prepared by Geotech Engineers, Inc. and dated August 24, 2023, was submitted with this PPS. As indicated in the report, Marlboro clay has been encountered in the majority of the soil borings. A slope section analyzed for slope stability has failed to meet the minimum required 1.5 factor of safety. The report indicated that, to improve the slope stability and properly support the proposed building, undercutting of the Marlboro clay is recommended. The report was reviewed and found to meet the County's geotechnical requirements for the proposed development. The geotechnical report and the global stability analysis shall be provided to DPIE for review and approval, at the time of building permit application. The details of the geotechnical recommendations, i.e., location and depth of undercutting, backfill materials, compaction, etc., shall be delineated on the permit plans, and reviewed and approved by DPIE.

Erosion and Sediment Control

Section 24-4303(d)(7) of the Subdivision Regulations requires approval of a concept grading, erosion, and sediment control plan by the SCD, prior to final approval of the PPS (minor or major), if required by Subtitle 32 (Water Resources Protection and Grading Code) of the County Code. The County requires the approval of an erosion and sediment control plan, at the time of permit review. The SCD approved Concept Grading, Erosion, and Sediment Control Plan 175-23 for this project on May 15, 2023. No further information is required.

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

Conformance with the Zoning Ordinance

The applicant is proposing one parcel for 9,500 square feet of commercial development. The use proposed for this property (in the RMF-48 Zone) is permitted, per Section 27-5101(c) of the Zoning Ordinance. This development is exempt from filing a detailed site plan (DET), in accordance with Section 27-3605(a)(2)(O) of the Zoning Ordinance since construction of less than 25,000 square feet of nonresidential development is proposed. The following development standards are applicable, at the time of PPS:

- Section 27-6200 Roadway Access, Mobility, and Circulation;

In accordance with Section 27-6200, the applicant is required to provide a circulation plan or site plan demonstrating conformance to Section 27-6205 through Section 27-6208 of the Zoning Ordinance. A circulation plan was provided by the applicant which is discussed in the Transportation finding of this resolution.

Conformance with the 2018 Prince George's County Landscape Manual

The proposed development is subject to the following provisions of the *Prince George's County Landscape Manual* (Landscape Manual).

- Section 4.3; Parking Lot Requirements
- Section 4.4; Screening Requirements
- Section 4.6; Buffering Development from Streets
- Section 4.9; Sustainable Landscaping Requirements

Conformance with the applicable landscaping requirements will be determined, at the time of permit review. The master plan also provides recommendations on the conservation and enhancement of scenic and historic roadways (pages 102-104). Section 4.6 of the Landscape Manual provides the buffer requirements, which will be applicable along MD 725, a historic roadway, at the time of permit review. The PPS for one parcel does not pose an impediment to achieving conformance with future landscaping requirements.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, of the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area, or disturbance, and requires a grading permit. Properties that are zoned RMF-48 are required to provide a minimum of 15 percent of the gross tract area in tree canopy coverage (TCC). Conformance with this requirement will be evaluated, at the time of permitting. The PPS for one parcel does not pose an impediment to achieving conformance with tree canopy requirements.

15. **Citizen Feedback**—The Mayor of the Town of Upper Marlboro provided written and verbal testimony, in support of the PPS, at the Planning Board meeting on December 14, 2023. No other community member signed up to speak at the meeting and no written correspondence was received from members of the community regarding this project, prior to the deadline for submission.
16. **Planning Board Hearing**—During the Planning Board meeting on December 14, 2023, the applicant proposed revisions to conditions of approval and also proposed two new conditions of approval regarding vehicular access to the subject property. The PPS labels the direct access to MD 725 as “Temporary,” and the shared driveway from Marlboro Gateway as “Proposed Site Access.” The applicant’s representative proposed a condition to remove the word “temporary” from the description of the direct access to the site and label the access to the shared driveway as “substitute access, when it becomes available.” The applicant’s representative requested this new condition to avoid potential confusion, at the time of permitting, and to ensure that the direct access will be the primary access to the property, until such time the shared access driveway from abutting Parcel 102 is constructed and an easement agreement for this shared driveway has been executed.

As previously discussed, prior development approvals for the subject property envisioned a shared access to MD 725 with Parcel 102, which is vacant and abuts the subject site to the west. This shared access would be located further away from the intersection of MD 725 with MD 301, and also would reduce the number of driveways from MD 725. However, at this time, development of Parcel 102 (titled Marlboro Gateway) has stalled, and the timing of its completion is uncertain. To develop the subject property, the applicant proposed a direct access to MD 725. The new condition proposed by the applicant states that, if an easement agreement is executed and the shared driveway on abutting Parcel 102 is completed, prior to approval of a building permit for the proposed development, the direct access to MD 725 shall be denied. The new condition also proposed that if, at the time of the building permit for the subject property, no easement is executed or the shared driveway is not constructed, the property will be allowed to construct the direct access to MD 725. Once an easement agreement allowing access to the shared driveway is executed and construction of the shared access driveway is completed, the direct access to MD 725 will be removed, so that only one access to the property is maintained. The Planning Board approved these new conditions, which are included as Conditions 8 and 9 in this resolution.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, December 14, 2023, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of January 2024.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:AH:rpg


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel