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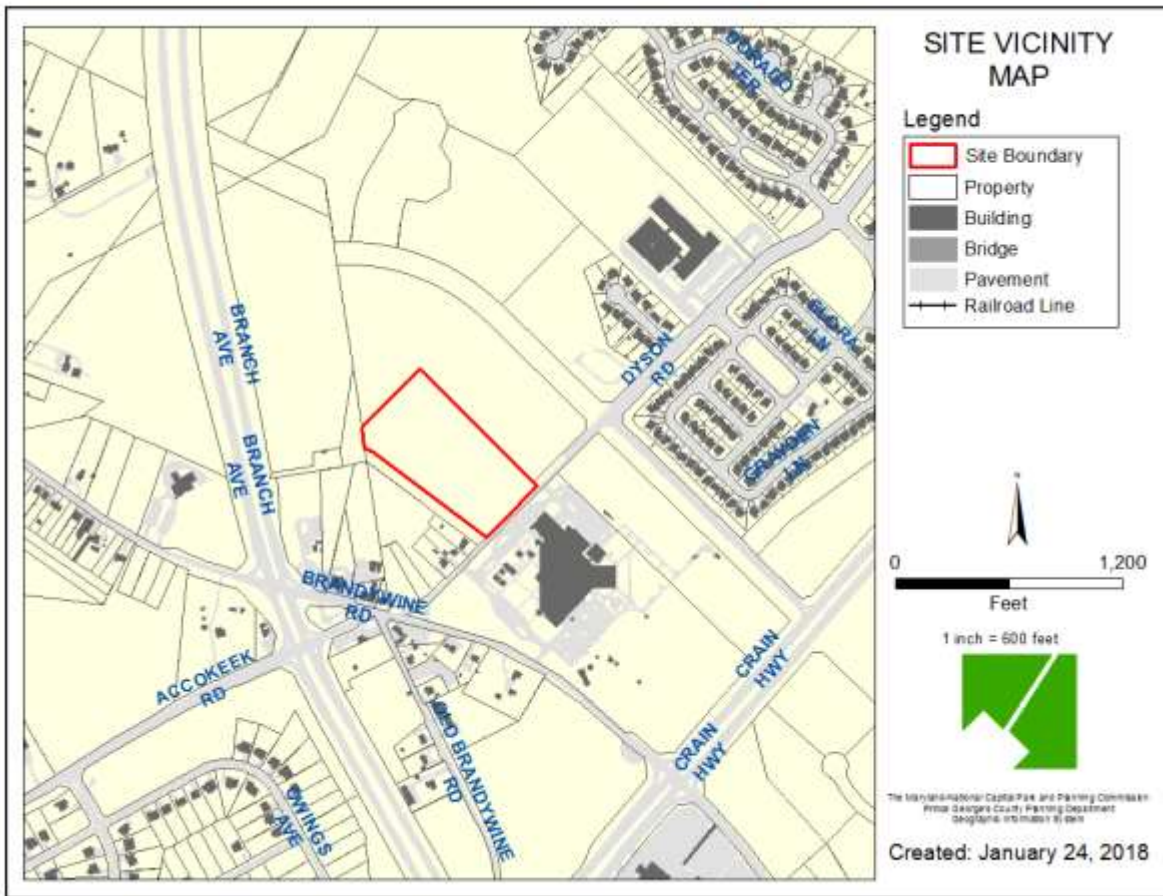
Preliminary Plan of Subdivision

4-16026

Application	General Data	
Project Name: Fallen Oak Townhomes Location: On the north side of Dyson Road, approximately 1,200 feet northeast of the intersection of MD 381 (Brandywine Road) with Dyson Road. Applicant/Address: Chadsworth Homes Inc 1010 Rockville Pike, Suite 300 Rockville, MD 20852 Property Owner: CHI at Hampton LLC 1010 Rockville Pike, Suite 300 Rockville, MD 20852	Planning Board Hearing Date:	07/12/18
	Staff Report Date:	07/09/18
	Date Accepted:	04/06/18
	Planning Board Action Limit:	140 days
	Mandatory Action Timeframe:	09/27/18
	Plan Acreage:	8.84
	Zone:	M-X-T
	Gross Floor Area:	N/A
	Lots:	44
	Parcels:	4
	Planning Area:	85A
	Council District:	09
	Election District	11
	Municipality:	N/A
	200-Scale Base Map:	217SE07

Purpose of Application	Notice Dates	
The residential component of the subject site that proposes 44 lots and four parcels for single-family attached dwellings. Variation request from Section 24-128(b)(12) Variance request from Sections 25-122(b)(1)(G) and 27-548(h)	Informational Mailing	01/30/18
	Acceptance Mailing:	04/05/18
	Sign Posting Deadline:	06/12/18

Staff Recommendation		Staff Reviewer: Joseph Onyebuchi Phone Number: 301-952-3665 E-mail: Joseph.Onyebuchi@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-16026
Fallen Oak Townhomes
Type 1 Tree Conservation Plan TCP1-029-94-02

OVERVIEW

The subject property is currently known as Parcel 133 recorded in Prince George's County Land Records in Liber 19669 at folio 443. The property is approximately 8.84 acres, located on the north side of Dyson Road, approximately 1,200 feet northeast of the intersection of MD 381 (Brandywine Road) and Dyson Road, and is currently undeveloped. The site is in the Mixed Use-Transportation-Oriented (M-X-T) Zone, subject to the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan and SMA). The site is subject to Conceptual Site Plan CSP-16005, which included a larger land area (24.89 acres) for the development of 44 townhomes and 9,300 square feet of gross floor area (GFA) for commercial development. The development of the entire site has been divided into two phases. Phase I is for the development of the residential component of the site and the current application proposes 44 lots for the development of 44 single-family attached dwellings. The application also proposes a private road parcel (Parcel A), open space parcels (Parcel B and Parcel C), and Parcel D, which is proposed for future commercial development. The plans do not propose any GFA for Parcel D and, consequently, this parcel was not tested for adequacy with this application. Parcel D will, therefore, be designated as an outparcel and will require testing for adequacy through a future preliminary plan of subdivision (PPS) as part of the larger commercial development that was approved with the CSP as Phase II.

The lots proposed in this application are to be accessed via internal private roads. Section 24-128(b)(12) of the Subdivision Regulations requires that private roads shall have a 10-foot-wide public utility easement (PUE) contiguous to the right-of-way. Pursuant to Section 24-113 of the Subdivision Regulations, the applicant has submitted a variation request to allow the PUE location to be off-set from the private road along Lots 1-22 and within the right-of-way along the entrance road and along Lots 38-44. Staff recommends approval of the variation, as discussed below.

The applicant has filed a variance from Section 25-122(b)(1)(G) for the removal of one specimen tree. Staff recommends approval of the variance request as discussed below. The applicant has also filed a variance to the requirements of Section 27-548(h) of the Zoning Ordinance, which requires that single-family attached lots in the M-X-T Zone be a minimum of 1,800 square feet, that no more than six townhouse units be provided per building group, that building groups containing more than six units not exceed 20 percent of the total building groups in the development, and that the end units of such groups be 24 feet wide. Specifically, the applicant is proposing to provide lot sizes less than 1,800 square feet and more than 6 townhomes per building group, with 100 percent of the total building groups exceeding 6 dwelling units and all end units at 20 feet wide. Staff recommends disapproval, as discussed below. Staff recommends **approval** of the PPS, a variation from Section 24-128(b)(12), a variance from Section

25-122(b)(1)(G), and **disapproval** of a variance from Section 27-548(h) with conditions based on the findings contained in this technical staff report.

SETTING

The property is located on Tax Map 145 in Grid A-2 and is within Planning Area 85A. The site is bounded by Dyson Road to the southeast and Gwynn Park Senior High School beyond in the Rural Residential (R-R) Zone, single-family detached dwellings to the west and southwest in the R-R Zone, and vacant land to the north located in the M-X-T Zone.

Abutting the subject site to the west is a 1.07 acre, 60-foot-wide parcel in the R-R Zone known as Parcel 4 and recorded in the Prince George's County Land Records in Liber 32086 at folio 27. According to the deed, the parcel was legally conveyed to the State Highway Administration (SHA) of the Maryland Department of Transportation in order to layout, open, establish, construct, extend, widen, straighten, grade, and improve as a part of the State Roads System of Maryland. The parcel is not a master-planned right-of way according to the 2009 *Countywide Master Plan of Transportation* (MPOT). The PPS labels this parcel as a road; however, the parcel is currently unimproved. The plans should be revised as necessary to clarify the classification of the road, as buffering from the proposed lots may be required, or if Parcel 4 should be classified as vacant land in the R-R Zone, if no future roadway is proposed.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject PPS application and the proposed development.

	EXISTING	PROPOSED
Zone	M-X-T	M-X-T
Use(s)	Vacant	Single Family Attached
Acreage	8.84	8.84
Lots	0	44
Outlots	0	0
Parcels	1	4
Dwelling Units:	0	44
Public Safety Mitigation Fee	No	No
Variance	No	Yes
		27-548(h)
		25-122(b)(1)(G)
Variation	No	Yes
		24-128(b)(12)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on April 20, 2018. The requested variation to Section 24-128(b)(12) was accepted on April 6, 2018 and heard at the SDRC meeting on May 18, 2018, as required by Section 24-113(b) of the Subdivision Regulations.

2. **Prior Approvals**—The site was subject to Conceptual Site Plan CSP-16005 approved by the Prince George's County Planning Board on November 9, 2017 and adopted on November 30, 2017 (PGCPB Resolution No. 17-146). The CSP included a larger land area (24.89 acres) for the development of 44 townhomes and 9,300 square feet of commercial space.

The CSP was approved subject to four conditions and the following conditions from CSP-16005, are applicable to this PPS:

2. At the time of detailed site plan (DSP):

a. The applicant and the applicant's heirs, successors, and/or assignees shall provide the following:

- (1) An eight-foot-wide sidepath (or wide sidewalk) along the subject site's entire frontage of Dyson Road, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement.**

Discussion of this condition is provided in the Trails section of this technical staff report.

b. If private on-site recreational facilities are required at the time of preliminary plan of subdivision, details of the same shall be reviewed by the Urban Design staff and shall be approved with the DSP for this project.

The submitted PPS indicates that private on-site recreational facilities will be provided to meet the mandatory park dedication requirement. Based on the 44 townhouse units proposed, the value of the provided recreation facilities should be approximately \$45,285. Conformance with this condition will be determined at the time of DSP when details of specific facilities are provided. If it is determined at the time of DSP that additional facilities are required to meet the value amount, there may be a loss of lots due to the limited usable open spaces proposed in the PPS.

3. Prior to any future application for development on Parcel A (Phase II), a full natural resources inventory plan for that parcel shall be submitted for review and approval.

Parcel A was approved for commercial development under CSP-16005 and includes the area designated for future commercial retail with this preliminary plan application as proposed (Parcel D). This PPS does not include any development on Parcel D, which will be evaluated with Phase II of the project.

4. Total development within the subject property shall be limited to uses which generate no more 69 AM peak trips and 118 PM peak trips. Any development generating an impact greater than that identified herein above shall require a new determination of the adequacy of transportation facilities.

A new transportation analysis was conducted by staff and the findings are provided in the Transportation Planning section of this technical staff report. The trips generated by the residential development proposed in this PPS are within the trip cap established with the CSP.

3. Community Planning—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) designated the subject property in the Established Communities growth policy area. The vision for Established Communities is most appropriate for context-sensitive infill and low-

to medium-density development. (Plan 2035, page 20)

Master Plan

The 2013 Subregion 5 Master Plan and SMA (CR-80-2013), recommends commercial land use on the subject property. In the Subregion 5 Master Plan and SMA, the District Council did not rezone the subject property to implement the recommended land use (see discussion of zoning, below). The master plan sets the framework for the future land use recommendations by addressing the vision for the adjacent property located east of MD 5, which also identifies the relationship to the subject site.

“In addition to the transit station in the core of the Brandywine Community Center, a second station is shown near the planned MD 5/A-63 interchange. This station would be placed on or near the site of the current park and ride lot and is envisioned as being park-and-ride oriented, attracting residents from a broad portion of Subregions 5 and 6. Large parking facilities could be considered here. Land use in the area surrounding the transit station (on both sides of MD 5) would be a mix of commercial and institutional uses east and west of MD 5.” (page 51)

Sectional Map Amendment/Zoning

The subject property was rezoned from the Rural-Residential (R-R) Zone to the M-X-T Zone with the District Council’s approval of Zoning Ordinance No. 20-2009. The Subregion 5 Master Plan and SMA retained the subject property in the M-X-T Zone (CR-81-2013).

The Zoning Ordinance requires multiple land uses in the M-X-T Zone and the Planning Board’s determination in PGCPB Resolution No. 17-146 approving the conceptual site plan (CSP-16005) for Fallen Oak states: “As the project is in the M-X-T Zone, two land uses are required and proposed. The Planning Board has herein approved the residential townhouses to be accessed via Dyson Road (Phase I) and 9,300 square feet of commercial development to be accessed from Mattawoman Drive (Phase II).”

In order to demonstrate compliance with the M-X-T Zone, the applicant should clarify in this PPS that the proposed application is Phase I of CSP-16005, and Phase II will include the required commercial element. Due to the environmental features on-site at the time of CSP, it was determined that an internal connection between the residential and commercial portions of the development was not feasible. However, the distinctive visual character and identity between the two phases will be further evaluated with the DSP, in accordance with the purposes of the M-X-T Zone.

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application for a residential subdivision is not required to conform to the Future Land Use recommendation for commercial land use in the Subregion 5 Master Plan and SMA because the District Council has not imposed zoning that conforms with the recommended commercial land use.

4. **Trails**—The site is covered by the 2009 MPOT and the 2013 Subregion 5 Master Plan and SMA (area master plan). Because the site is located in the Branch Avenue Corridor, it is subject to the requirements of Section 24-124.01 and the 2012 Transportation Review Guidelines, Part 2 at the time of PPS.

Two master plan trail/bikeway issues impact the application with a shared use sidepath (or wide sidewalk) recommended along Dyson Road and Mattawoman Drive (A-63) (see MPOT map). The master plan facility along Dyson Road has been implemented as a wide sidewalk along the

frontages of several properties in the vicinity of the subject site, including the frontage of the nearby Gwynn Park Middle School, which lies approximately 1,100 linear feet to the northeast of the subject site along Dyson Road. Gwynn Park High School is directly south of Dyson Road, across from the subject property. Staff recommends the continuation of the sidepath along the frontage of the subject site. The master plan sidepath along Mattawoman Drive abuts the portion of the development not included in the subject application and will be implemented at the time of road construction. This may occur when the planned interchange is constructed with MD 5 and Brandywine Road. No trail or road construction for A-63 is recommended at this time for the subject application.

The Complete Streets element of the MPOT reinforces the need for these recommendations and includes the following policies regarding sidewalk construction and the accommodation of pedestrians.

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.

Sidewalk access is provided to all residential units and the frontage of Dyson Road will be improved with a shared use sidepath (or wide sidewalk). The master plan facility along A-63 will be completed concurrently with the road construction.

Review of the Bicycle and Pedestrian Impact Statement (BPIS) and Proposed Off-Site Improvements:

Due to the location of the subject site within the Brandywine Town Center, the application is subject to Prince George's County Council Bill CB-2-2012, which includes a requirement for the provision of off-site bicycle and pedestrian improvements. Section 24-124.01(c) of the Subdivision Regulations includes the following guidance regarding off-site improvements:

- (c) **As part of any development project requiring the subdivision or re-subdivision of land within Centers and Corridors, the Planning Board shall require the developer/property owner to construct adequate pedestrian and bikeway facilities (to the extent such facilities do not already exist) throughout the subdivision and within one-half mile walking or bike distance of the subdivision if the Board finds that there is a demonstrated nexus to require the applicant to connect a pedestrian or bikeway facility to a nearby destination, including a public school, park, shopping center, or line of transit within available rights of way.**

Council Bill CB-2-2012 also included specific guidance regarding the cost cap for the off-site improvements. The amount of the cost cap is determined pursuant to Section 24-124.01(c):

The cost of the additional off-site pedestrian or bikeway facilities shall not exceed thirty-five cents (\$0.35) per gross square foot of proposed retail or

commercial development proposed in the application and three hundred dollars (\$300.00) per unit of residential development proposed in the application, indexed for inflation.

Based on Section(c) and the 44-residential units proposed, the cost cap for the application is \$13,200.

Section 24-124.01 also provided specific guidance regarding the types of off-site bicycle and pedestrian improvements that may be required, per Section 24-124.01(d):

- (d) Examples of adequate pedestrian and bikeway facilities that a developer/property owner may be required to construct shall include, but not be limited to (in descending order of preference):**
- 1. Installing or improving sidewalks, including curbs and gutters, and increasing safe pedestrian crossing opportunities at all intersections;**
 - 2. Installing or improving streetlights;**
 - 3. Building multi-use trails, bike paths, and/or pedestrian pathways and crossings;**
 - 4. Providing sidewalks or designated walkways through large expanses of surface parking;**
 - 5. Installing street furniture (benches, trash receptacles, bicycle racks, bus shelters, etc.); and**
 - 6. Installing street trees.**

A scoping meeting was held with the applicant on November 21, 2017. There are numerous pedestrian destinations along Dyson Road in the vicinity of the subject site as well as Gwynn Park High and Middle Schools. Sidewalks are fragmented in the vicinity of the subject site, with newer developments including sidewalks along their frontage, while some sections of the road remain open with no sidewalks. At the time of the scoping meeting, a gap in the sidewalk network was identified that could serve as an appropriate off-site improvement to serve the future residents of the site. There is an existing sidewalk along the west side of Dyson Road that ends approximately 255 feet short of the frontage of the subject site. Staff recommends that the sidewalk be extended from the property line to fill this 255-foot gap. The applicant submitted an exhibit illustrating the sidewalk project proposed on June 21, 2018 (Applicant's Exhibit 1).

Section 24-124.01(f) requires an exhibit of all off-site improvements at the time of detailed site plan:

- (f) If a conceptual or detailed site plan approval is required for any development within the subdivision, the developer/property owner shall include, in addition to all other required information in the site plan, a pedestrian and bikeway facilities plan showing the exact location, size, dimensions, type, and description of all existing and proposed easements and rights-of-way and the appurtenant existing and proposed pedestrian and bikeway facilities throughout the subdivision and within the designated**

walking or biking distance of the subdivision specified in Subsection (c) of this Section, along with the location, types, and description of major improvements, property/lot lines, and owners that are within fifty (50) feet of the subject easements and rights-of-way.

An exhibit showing the location, limits and details of the off-site sidewalk will be required at the time of DSP pursuant to Section (f).

Demonstrated nexus between the subject application and the off-site improvements:

Section 24-124.01(c) requires that a demonstrated nexus be found with the subject application in order for the Planning Board to require the construction of off-site pedestrian and bikeway facilities. The demonstrated nexus between each of the proffered off-site improvements and the subject application is summarized below.

The off-site sidewalk proffered by the applicant will extend the sidewalk being constructed along the frontage of the subject site and will better connect the future residents of the site with the nearby residential communities and schools along Dyson Road.

Finding of Adequate Bicycle and Pedestrian Facilities:

Council Bill CB-2-2012 requires that the Planning Board make a finding of adequate bicycle and pedestrian facilities at the time of preliminary plan. Council Bill CB-2-2012 is applicable to preliminary plans within designated centers and corridors. The subject application is located with the designated Brandywine Town Center, specific guidance on the criteria for determining adequacy, as well as what steps can be taken if inadequacies need to be addressed.

As amended by CB-2-2012, Section 24-124.01(b)(1) and (2) includes the following criteria for determining adequacy:

- (b) Except for applications for development project proposing five (5) or fewer units or otherwise proposing development of 5,000 or fewer square feet of gross floor area, before any preliminary plan may be approved for land lying, in whole or part, within County Centers and Corridors, the Planning Board shall find that there will be adequate public pedestrian and bikeway facilities to serve the proposed subdivision and the surrounding area.**
 - 1. The finding of adequate public pedestrian facilities shall include, at a minimum, the following criteria:**
 - a. The degree to which the sidewalks, streetlights, street trees, street furniture, and other streetscape features recommended in the Countywide Master Plan of Transportation and applicable area master plans or sector plans have been constructed or implemented in the area; and**
 - b. The presence of elements that make is safer, easier and more inviting for pedestrians to traverse the area (e.g., adequate street lighting, sufficiently wide sidewalks on both sides of the street buffered by planting strips, marked crosswalks, advance stop lines and yield lines, “bulb out” curb extensions, crossing signals, pedestrian refuge medians, street trees, benches, sheltered commuter bus stops, trash receptacles, and signage. (These elements address many of the design**

features that make for a safer and more inviting streetscape and pedestrian environment. Typically, these are the types of facilities and amenities covered in overlay zones).

Sidewalks are provided to all residential units internal to the subject site. The applicant has proffered off-site sidewalk construction along a segment of Dyson Road to complete the pedestrian connection between the subject site and abutting residential communities. Between the improvements along the frontage of the subject site and the off-site sidewalk proposed, an additional segment of Dyson Road will be retrofitted for pedestrian access.

- 2. The finding of adequate public bikeway facilities shall, at a minimum, include the following criteria:**
 - a. The degree to which bike lanes, bikeways, and trails recommended in the MPOT and applicable area master plans or sector plans have been constructed or implemented in the area;**
 - b. The presence of specially marked and striped bike lanes or paved shoulders in which bikers can safely travel without unnecessarily conflicting with pedestrians or motorized vehicles;**
 - c. The degree to which protected bike lanes, on-street vehicle parking, medians or other physical buffers exist to make it safer or more inviting for bicyclists to traverse the area; and**
 - d. The availability of safe, accessible and adequate bicycle parking at transit stops, commercial areas, employment centers, and other places where vehicle parking, visitors, and/or patrons are normally anticipated.**

The shared use sidepath proposed along the frontage of the subject site will accommodate bicyclists consistent with the master plan. Striping for designated bike lanes (or other appropriate on-road facility) can be considered by the Prince George's County Department of Public Works and Transportation (DPW&T) at the time of road resurfacing.

- 5. Transportation—**The subject property is located within Planning Area 85A and is affected by the Brandywine Road Club. Specifically, County Council Resolution CR-9-2017 indicates the following:

1. Establishes the use of the Brandywine Road Club for properties within Planning Area 85A and 85B as a means of addressing significant and persistent transportation deficiencies within these planning areas.
2. Establishes a list of projects for which funding from the Brandywine Road Club can be applied.
3. Establishes standard fees by development type associated with the Brandywine Road Club to be assessed on approved development.

The resolution works in concert with Council Bill CB-22-2015, which permits participation in roadway improvements as a means of demonstrating adequacy for transportation as required in Section 24-124. Specifically, Council Bill CB-22-2015 allows the following:

1. Roadway improvements participated in by the subdivider can be used to alleviate any inadequacy as defined by the “Guidelines.” This indicates that sufficient information must be provided to demonstrate that there is an adequacy.
2. To be subject to CB-22-2015, the subject property must be located in an area for which a road club was established prior to November 16, 1993. In fact, the Brandywine Road club was included in Council Resolution CR-60-1993 adopted on September 14, 1993, and it was developed and in use before that date.

Pursuant to Council Resolution CR-9-2017, the Brandywine Road Club fee for the subject application will be \$1,338 per dwelling unit to be indexed by the appropriate cost indices to be determined by the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE). Pursuant to Council Bill CB-22-2015, once the appropriate payment is made to the satisfaction of DPIE, no further obligation will be required of the applicant regarding the fulfillment of transportation adequacy requirements of Section 24-124(a).

A previously submitted conceptual site plan (CSP-16005) established transportation related findings. The trip generation in each peak hour was used for the analysis and for formulating the new, residential-only trip cap on the site. The status of this is summarized below:

Trip Generation Summary, 4-16026, Fallen Oaks						
Proposed Use	AM Peak Hour			PM Peak Hour		
	In	Out	Tot	In	Out	Tot
44 townhouse units	6	26	32	24	13	37
Total Net New Trips	6	26	32	24	13	37
Trip Cap: CSP-16005			69			118

The subject property is located within Transportation Service Area (TSA) 2, as defined in Plan 2035. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level of Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the, is permitted at signalized intersections within any tier subject to meet the geographical criteria in the guidelines.

Unsignalized intersections: The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy; rather, it is an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the

Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The critical intersections, interchanges, and links identified above, when analyzed with existing traffic, operate as follows:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
Dyson Road and Mattawoman Drive	11.2*	10.4*	--	--
Dyson Road and Site Access	N/A	N/A	--	--
Dyson Road and Brandywine Road	19.7*	19.6*	--	--
US 301 and MD 381	1,310	1,219	D	C
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure and should be interpreted as a severe inadequacy.				

In evaluating the effect of background traffic, the traffic impact study (TIS) included a growth of three percent per year for two years that was applied to the through-traffic volumes. Based on the regional growth, a second analysis was done. The table below shows the results:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
Dyson Road and Mattawoman Drive	11.4*	10.5*	--	--
Dyson Road and Site Access	N/A	N/A	--	--
Dyson Road and Brandywine Road	29.0*	21.6*	--	--
US 301 and MD 381	2,391	2,309	F	F
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure and should be interpreted as a severe inadequacy.				

Regarding the total traffic scenario, the trip generation as computed above was applied to the local transportation network. The total traffic analysis indicates the following results:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
Dyson Road and Mattawoman Drive	11.6*	11.1*	--	--
Dyson Road and Site Access	10.4*	11.9*	--	--
Dyson Road and Brandywine Road	38.7*	32.1*	--	--
US 301 and MD 381	2,324	2,540	F	F
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure and should be interpreted as a severe inadequacy.				

The subject site is required to contribute to the Brandywine Road Club. The critical intersection of US 301 and MD 381 is one of the intersections for which relief is planned by means of the Brandywine Road Club. For that reason, adequacy is determined consistent with Section 24-124(a)(8).

Master Plan Roads

The property is located within the boundary of the Subregion 5 Master Plan and SMA. The property has frontage along a section of Dyson Road, which is not classified on the master plan. Right-of-way dedication of 25 feet from centerline is shown on the current plans. This dedication is acceptable.

Based on the proceedings findings, adequate transportation facilities will exist to serve the proposed subdivision, as required in accordance with Section 24-124 of the Subdivision Regulations, if the application as approved with conditions.

6. **Use Conversion**—The total development included in this PPS is for 44 single-family attached dwellings in the M-X-T Zone. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, as set forth in the resolution of approval and reflected on the PPS, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.
7. **Schools**—This PPS has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution CR-23-2003, and concluded the following:

**Impact on Affected Public School Clusters
Single-family Attached Units**

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 6	High School Cluster 6
Dwelling Units (DU)	44 DU	44 DU	44 DU
Pupil Yield Factor	0.145	0.076	0.108
Subdivision Enrollment	6	3	5
Actual Enrollment in 2017	5,029	1,885	2,543
Total Enrollment	5,035	1,888	
State Rated Capacity	6,425	2,457	3,811
Percent Capacity	78%	77%	67%

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of \$7,000 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia, \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass-transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA), or \$12,000 per dwelling for all other buildings. Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$9,317 and \$15,972 to be paid at the time of issuance of each building permit.

In 2013, Maryland House Bill 1433 reduced the school facilities surcharge by 50 percent for multifamily housing constructed within an approved transit district overlay zone, where there is no approved transit district overlay zone within a one-quarter mile of a Metro station, or within the Bowie State MARC Station Community Center Designation Area, as defined in the 2010 *Approved Bowie State Marc Station Sector Plan and Sectional Map Amendment*. The bill also established an exemption for studio or efficiency apartments that are located within the County urban centers and corridors as defined in Section 27A-106 of the Prince George's County Code, within an approved transit district overlay zone, or where there is no approved transit district overlay zone within one-quarter mile of a Metro station. This act is in effect from October 1, 2013 through September 30, 2018.

8. **Fire and Rescue**—This PPS has been reviewed this preliminary plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d). The response-time standard established by Section 24-122.01(e) is a maximum of seven minutes travel time from the first due station. The proposed project is served by Brandywine Fire/EMS Company 840, which is located at 14201 Brandywine Road, Brandywine, Maryland.

The Deputy Fire Chief, Brian J. Frankel, Emergency Services Command of the Prince George's County Fire/EMS Department, stated in writing that "as of April 17, 2018 the project is within a seven-minute travel time from the first due station." The Fire Chief, as of May 15, 2016, has outlined the adequacy of personnel and equipment as required by Section 24-122.01 (e).

Capital Improvement Program (CIP)

There are no CIP projects for public safety facilities proposed near the subject site.

9. **Police Facilities**—This PPS has been reviewed for adequacy of police services in accordance with Section 24-122.01(c).

The subject property is in Police District V, Brandywine. The response time standards established by Section 24-122.01(e) is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The PPS was accepted for processing by the Planning Department on April 6, 2018. Based on the most recent available information provided by the Police Department as of December 2015, the police response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls are met.

10. **Water and Sewer**—Section 24-122.01(b)(1) 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 preliminary or final plat approval.”

The 2008 *Water and Sewer Plan* placed this property in water and sewer Category 3, Community System. The property is within Tier 1 under the Sustainable Growth Act, for development on public sewer, and will therefore be served by public systems.

11. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a), when utility easements are required by a public company, the subdivider should 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 is 10 feet wide along both sides of all public rights-of-way. The property’s frontage abuts Dyson Road, which is a public road, and the applicant has delineated the required PUE.

Section 24-128(b)(12) of the Subdivision Regulations states that “private roads shall have a public utility easement contiguous to the right-of-way. Said easement shall be at least ten (10) feet in width and shall be adjacent to either right of way line.”

The subject PPS proposes to locate a PUE within private road Parcel A along Lots 38–44 and along the entrance road to the site. A PUE that is off-set from the private right-of-way is also proposed along Lots 1–22 to allow easements for water and sewer lines that are contiguous to the right-of-way. The applicant has requested a variation from Section 24-128(b)(12) for the location of the PUEs as outlined below.

Variation Request for Public Utility Easements (PUEs)

Section 24-113 sets forth the required findings for approval of a variation.

Section 24-113. - Variations.

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative**

proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare, or injurious to other property;**

The granting of this variation to permit the PUE in alternate locations will not be detrimental to public health, safety, or welfare. The proposed location of the PUEs is designed to avoid conflict with both dwellings and wet utilities. The PUE is provided at the standard required width within the boundary of PPS 4-16026 and will not affect other property.

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

The area included within 4-16026 is 8.64 acres. The property is encumbered with 5.05 acres of primary management area (PMA), which is 58.4 percent of the site, resulting in an extraordinary situation or condition that is unique to the subject property. The PMA completely bisects the property from east to west, rendering the northern portion of the property unusable due to excessive environmental constraints. The elements included in the PMA are 100-year floodplain, wetlands and their buffers, regulated streams and their buffers, and steep slopes. The areas of developable land are fragmented, with the largest portion of developable area fronting on Dyson Road. The existing environmental conditions are unique to subject property and are not generally applicable to other properties.

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

The variation to Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. This PPS and variation request for the location of PUEs was referred to the Potomac Power and Electric Company (PEPCO), the Washington Suburban Sanitary Commission (WSSC), Washington Gas, Verizon, and AT&T. WSSC will be provided separate easements for wet utilities, per their standard requirement. A response from the remaining utility companies was not received. The full width PUE has been provided and avoids colocation with wet utilities, as required. The PUE locations proposed allow each lot to have access to PUE's of sufficient width to accommodate all utility providers, which will be further reviewed at time of detailed site plan. Therefore, the variation does not constitute a violation of any other applicable law, ordinance, or regulation.

- (4) **Because of the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.**

The area included within PPS 4-16026 is 8.64 acres. The property is encumbered with 5.05 acres of PMA, which is 58.4 percent of the site, resulting in an extraordinary situation or condition that is unique to the subject property. The PMA completely bisects the property from east to west, rendering the northern portion of the property unusable due to excessive environmental constraints. The elements included within the PMA are 100-year floodplain, wetlands and their buffers, regulated streams and their buffers, and steep slopes. The areas of developable land are fragmented, with the largest portion of developable area fronting on Dyson Road. The resulting configuration requires the need for the variation for an alternative location for the PUE in order to achieve the access and circulation necessary to serve the proposed dwelling units within a limited area. If the strict regulation for the location of PUEs was carried out, the same lotting pattern would require additional environmental impacts, variances for design or severely diminish the achievable development, causing particular hardship to the owner.

- (5) **In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113(a), above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the Prince George's County Code.**

The subject property is zoned M-X-T therefore, this provision does not apply.

12. **Historic**—Most of the northern part of the subject property contains wetlands and appears to have been mined for sand and gravel. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. The subject property does not contain, and is not adjacent to, any Prince George's County historic sites or resources. This proposal will not impact any historic sites, historic resources, or known archeological sites. Phase I archeology survey is not recommended.
13. **Environmental**—The following applications are previously reviewed for the subject property:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
NRI-106-2016	N/A	Staff	Approved	9/09/2016	N/A
NRI-106-2016-01	N/A	Staff	Approved	9/06/2017	N/A
NRI-183-2017 (EL)	N/A	Staff	Approved	10/18/2017	N/A
CSP-16005	TCPI-029-94-01	Staff	Approved	11/09/2017	17-146
4-16026	TCP1-029-94-02	Planning Board	Pending	Pending	Pending

Proposed Activity

The applicant is requesting approval of the subject PPS and a Type 1 Tree Conservation Plan (TCPI) for the construction of a townhouse development.

Grandfathering

The project is subject to the current regulations of Subtitles 24, 25, and 27 that came into effect on September 1, 2010 and February 1, 2012 because the application is for a new preliminary plan.

Site Description

The site is located on the north side of Dyson Road, approximately 1,200 feet east of MD 381 (Brandywine Road), in Brandywine, Maryland. The site is currently vacant. A review of the available information indicates the site does contain streams within the Middle Potomac Watershed and drains toward Piscataway Creek, a Maryland Stronghold watershed, to the north. Floodplain and wetlands are also mapped on this property. The Sensitive Species Project Review Area (SSPRA) map received from the Maryland Department of Natural Resources Natural Heritage Program shows no rare, threatened, or endangered species found to occur on, or near this property. Forest Interior Dwelling Species (FIDS) habitat and a FIDS buffer are mapped on-site.

Plan Prince George's 2035 Approved General Plan (2014)

The site is located within the Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map as designated by Plan 2035.

Subregion 5 Master Plan and Sectional Map Amendment (2013)

The Environmental Infrastructure section contains goals, policies, and strategies. The following guidelines have been determined to be applicable to this site. The text in **bold** is the text from the master plan and the plain text provides comments on the plan conformance.

Policy 1: Implement the master plan's desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.

Policy 2: Ensure that new development incorporates open spaces, environmental design, and mitigation activities.

Policy 3: Protect, preserve, and enhance the identified green infrastructure network within Subregion 5.

Parcel 133 is zoned M-X-T, for a mix of uses. The applicant is proposing townhouses at this stage and a commercial site at a later phase. The townhouses are proposed to avoid impacts to the

regulated environmental features to the fullest extent possible, while preserving approximately 51 percent of net tract area on the parcel. The subject property is located entirely within the regulated and evaluation areas of Green Infrastructure Plan of the 2017 *Approved Prince George's Resource Conservation Plan*, due to the presence of wetlands and floodplain. The applicant has incorporated environmentally sensitive design into the stormwater management practices and is minimizing impacts to the regulated environmental features to the extent practicable.

Policy 4: Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.

Preservation of water quality will be achieved through an approved stormwater concept plan utilizing environmentally sensitive design to the maximum extent practicable. An approved SWM concept plan (38664-2016-01) and approval letter was submitted with the subject application.

Policy 5: Protect and restore groundwater recharge areas such as wetlands and the headwater areas of streams.

The wetlands on this property are being preserved with this application.

Policy 8: Minimize impervious surfaces in the Developing Tier portion of the watershed through use of conservation subdivisions and environmentally sensitive design and, especially in the higher density Brandywine Community Center, incorporate best stormwater design practices to increase infiltration and reduce run-off volumes.

The use of environmentally sensitive design is proposed with the stormwater concept plan.

Conformance with the Green Infrastructure Plan

According to the Green Infrastructure Plan, the site contains both regulated and evaluation areas within the designated network of the plan. The conceptual design as reflected on the preliminary plan and the TCP1 is in keeping with the goals of the Green Infrastructure Plan and focuses development outside of the most sensitive areas of the site.

Environmental Review

As revisions are made to the submitted plans, the revision boxes on each plan sheet shall be used to describe what revisions were made, when they were made, and by whom.

Natural Resource Inventory Plan/Existing Features

The application has two approved Natural Resource Inventories (NRI). NRI-106-2016-01 is for Parcel 133 (8.84 acres), approved on September 19, 2017. NRI-183-2017 is for the Parcel A (16.05 acres), approved on October 18, 2017. Overall, the 24.89-acre site contains woodlands, specimen trees, streams and associated buffers, wetlands and associated buffers, and floodplain, all contained within the delineated primary management area (PMA). Because no development is proposed on Parcel A as part of this development, a plan NRI is not required at this time. Specimen trees were only inventoried and evaluated for Parcel 133, where development is proposed. Although the general notes state that there are 57 specimen trees on site, the plan correctly shows and lists 40 specimen trees present on the site.

The TCP1 and the preliminary plan show all the required information correctly in conformance with the approved NRIs. No revisions are required for conformance to the NRI.

Woodland Conservation

This property 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 it contains more than 10,000 square feet of existing woodland. Because part of the site is subject to an existing Type I and Type II Tree Conservation Plan (TCPII-029-94-02 and TCPII-034-96), the TCP1 shows the addition of Parcel 133. The addition of Parcel 133 results in a gross tract area of 198.16 acres for the TCP1 only. The TCP1 plan includes a note that clarifies the limits of the preliminary plan application.

Although the subject area of this preliminary plan application is zoned M-X-T, which has a 15 percent woodland conservation threshold, the applicant and staff have agreed to the continued application of the threshold approved with the original TCP1, which is 20 percent.

As previously stated, no development is proposed on Parcel A at this time. The overall site of the TCP1 is 198.16 acres. The TCP1 worksheet correctly calculates the woodland conservation threshold of 37.66 acres and the overall requirement of 54.27 acres after proposing to clear an additional 4.49 acres on Parcel 133. The requirement is proposed to be met with 57.67 acres of on-site woodland preservation, exceeding the 54.27-acre requirement. An additional 16.31 acres of woodland will be preserved but not counted as credit.

Specimen Trees

Section 25-122(b)(1)(G) of the County Code, requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree's condition and the species' ability to survive construction as provided in the Technical Manual."

A Subtitle 25 variance application, a statement of justification in support of a variance, and a plan showing seven trees to be removed (ST2-7, 9), was approved with CSP-16005. With this application, the applicant submitted a Subtitle 25 variance application, a statement of justification in support of a variance, and a plan showing the removal of one additional tree, ST-8, a 41-inch diameter, yellow poplar in good condition.

Section 25-119(d) of the WCO contains six required findings to be made before a variance can be granted. A Letter of Justification dated April 23, 2018 seeks to address the required findings for all 8 specimen trees as a group, however; only a variance to Specimen tree 8 is necessary at this time. The text in **BOLD**, labeled A–F, are the six criteria listed in Section 25-119(d)(1). The plain text provides responses to the criteria.

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

The site is fully forested with wetlands, floodplain, and stream channels flowing through the western and northern portions. As this property was once part of a much larger gravel mining site, drainage channels and travel pathways are still found on-site. The existing specimen trees that need to be removed follow a significant drainage channel that traverses diagonally across the center of the property from the southeast corner, west-northwest, to the regulated stream.

Primarily, the hardship on this site is created by the location of the trees in this developable area and the need for stormwater management and other required

infrastructure to meet the requirements of the County Code. However, for the development to succeed it has to be placed in the southern half of the property away from jurisdictional wetlands and waters of the U.S. (WOUS). Although the subject specimen tree is located outside of the limits of disturbance, grading necessary for the stormwater outfall will significantly impact the critical root zone.

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

The approval of this variance request to remove one additional specimen tree on the property is necessary to develop the site as currently zoned (M-X-T). If other properties, similarly zoned, encounter trees in a similar condition and in a similar location on a site, the same considerations would be provided during the review of the required variance application.

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

The purpose of request is to remove one additional specimen tree, for a total of eight specimen trees to be removed, and avoid further significant impacts to jurisdiction features within the PMA. The applicant is not asking the County for any special privileges that would be denied to other applicants, but permission to remove one additional specimen tree, so that the site may be developed in accordance with its designated zoning.

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

This request is not based on conditions or circumstances which are solely the result of actions by the Applicant. The removal of this specimen trees is primarily due to proximity with the proposed developable portion of the site and the immediate relationship to the presence of 1.08 acres of palustrine, forested wetlands and approximately 1,300 linear feet of WOUS. The request is not the result of actions by the applicant.

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

This request is based on the nature of the existing site, distribution of the subject trees, and the existing infrastructure surrounding the site. This request is not based on a condition relating to land or a building use on a neighboring property.

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

The proposed Fallen Oak townhouse development will not adversely affect water quality because the review of the project will be subject to the requirements of the Maryland Department of the Environment and the Prince George's County Soil Conservation District.

The one additional specimen tree to be removed is adjacent to a regulated stream, however; the remaining 32 specimen trees to be preserved will continue to provide water

quality benefits, canopy tree shading reducing the ambient temperature of storm-water run-off, water infiltration in the root zone, and soil erosion.

Summary of the Specimen Tree Variance Request

Specimen tree ST-8, proposed for removal, is located in the most suitable area of the site for the stormwater outfall, and is adjacent to an extensive area of regulated environmental features, most of which will be preserved and placed into a protective easement. The required findings of Section 25-119(d) have been adequately addressed by the applicant for the removal of specimen tree ST-8.

Preservation of Regulated Environmental Features/Primary Management Area (PMA)

This site includes regulated environmental features inclusive of the PMA, which must be preserved and/or restored to the fullest extent possible. A statement of justification and exhibits for the impacts were approved with CSP-16005. Based on the level of design information currently available, the limits of disturbance shown on the TCP1, and previously approved impact exhibits, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible.

Soils

The predominant soils found to occur according to the United States Department of Agriculture, Natural Resources Conservation Service (USDA NRCS), Web Soil Survey are the Beltsville-silt loam (5–10 percent slopes), Beltsville-Urban land complex (0–5 percent slopes), Sassafras sandy loam (0–2 percent slopes) and Udorthents (0–5 percent slopes). Marlboro Clay was not found to occur on, or in the vicinity of, this property.

14. **Urban Design**—Conformance with the following Zoning Ordinance regulations is required for the proposed development at time of the required Detailed Site Plan (DSP) review, including, but not limited to the following:

- a. Section 27-543(a) regarding the uses allowed in the Mixed-Use Transportation-Oriented (M-X-T) Zone;
- b. Sections 27-544 regarding regulations in the M-X-T Zone;
- c. Section 27-547(b) regarding the Table of Uses for the M-X-T Zone and;
- d. Section 27-548 regarding regulations in the M-X-T Zone;
- e. Parts 11 and 12 regarding parking and signage.

Section 27-543(a)

The townhouse use proposed with the subject application is a permitted use within the M-X-T Zone.

Section 27-548(h)

The applicant is requesting four variances from the requirements under Section 27-548(h) for minimum lot size, maximum percentage of building groups with more than six dwelling units, and minimum end-unit width.

- h. Townhouses developed pursuant to a Detailed Site Plan for which an application is filed after December 30, 1996, shall be on lots at least one thousand eight hundred (1,800) square feet in size.**

Only ten of the townhouse lots in this application meet the minimum 1,800-square-foot size requirement of the M-X-T Zone, with most lots being 1,580 square feet, and the

smallest being 1,280 square feet. Staff notes that the square footage of the smallest proposed lots is approximately 70 percent of the required amount. Therefore, staff does not support this variance request and finds that the proposal for all the lots is excessive and would result in an inferior design. Revisions to the plans should be made to provide for conformance to the minimum lot size as required by the M-X-T Zone. Section 27-548(h) states the following:

There shall be no more than six (6) townhouses per building group, except where the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than six (6) dwelling units (but not more than eight (8) dwelling units) would create a more attractive living environment or would be more environmentally sensitive. In no event shall the number of building groups containing more than six (6) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width

Section 27-548(h) limits the percentage of the number of building groups containing more than 6 dwelling units to 20 percent of the total number of building groups in the total development. The applicant is seeking a variance from this requirement and is proposing 100 percent of the building groups with either seven or eight units. Staff does not support this variance and recommends the reduction or separation of units to show not more than six units in a row. The lot layout should be adjusted to show conformance with this regulation.

...and the end units on such building groups shall be a minimum of twenty-four feet in width...

The applicant is requesting a variance to the required minimum 24-foot-width for end units and is proposing units that are all 20 feet wide. The requirement for a wider unit on the end of each group of townhomes provides for variation in the architectural design of the development. Unit size should be required and demonstrated at the time of the DSP review of the architectural elevations. The PPS demonstrates lot widths greater than 24 feet wide for all end units. Therefore, staff does not support this variance request at this time. However, a variance may be filed with the DSP and evaluated when architectural products are proposed. The lot widths should be provided at this time to accommodate a 24-foot-wide unit and a minimum of 3–8 feet of additional width to accommodate a sufficient side yard wide enough to provide maintenance of the structure along the side elevations. It should also be noted that side entry townhouse units are highly desirable and should be explored as a product type for this subdivision at the time of DSP review.

The applicant has submitted a Statement of Justification in accordance with Section 27-230 of the Zoning Ordinance which sets forth the required findings for approval of a variance request as follows:

Section 27-230. Criteria for granting appeals involving variances.

- (a) A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:**

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The area included within PPS 4-16026 is 8.64 acres. The property is encumbered with 5.05 acres of primary management area (PMA), which is 58.4 percent of the site, resulting in an extraordinary situation or condition that is unique to the subject property. The PMA completely bisects the property from east to west, rendering the northern portion of the property unusable due to excessive environmental constraints. The elements included in the PMA are 100-year floodplain, wetlands and their buffers, regulated streams and their buffers, and steep slopes. The areas of developable land are fragmented, with the largest portion of developable area fronting on Dyson Road. The resulting configuration requires the need for the variances to the M-X-T Development Standards in order to achieve the lot yield needed to enhance the marketability of the project. Simply stated, the existing environmental conditions on the subject property are not shared by surrounding properties. Consequently, the requested variances are necessary.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

As stated above, 4-16026 is encumbered with 5.05 acres of PMA, which is 58.4 percent of the site, leaving a very small area for development. Due to the existing environmental features, and the surrounding environmental features and platted conservation easements, the development proposed with 4-16026 is located in one of the few areas of M-X-T ground in this area that is developable. The denial of the three requested variances will result in an extreme hardship on the owner and will render the property economically unviable, as the financial market dictates that fee simple townhouse lots are more desirable and economically viable than condominium parcels. Current institutional markets have very restrictive lending rules for condominium ownership, which results in delayed sales and reduced value. To avoid these inherent delays caused by condominium ownership, the Applicant requests as many fee simple ownership lots as possible to fulfill the development potential expected in the M-X-T Zone.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The granting of this variance will not impair the intent, purpose, or integrity of the general plan or master plan. Instead, the approval of this variance will allow the property to develop as a mixed-use transportation-oriented planned community and encourage similar growth in the area.

Staff finds that the applicant's justification for the proposed variances are not sufficient to grant the variance. While the site is impacted by environmental features that are unique to the site, the

applicant does not specify which lots need relief from the requirements of the M-X-T Zone. Further, the applicant suggests that adherence to the requirements of the zone would render the property economically unviable. Staff does not support this reason as the sole basis for practical difficulty, as a fee-simple lotting pattern can still be achieved without the requested variances.

In fact, staff has analyzed the proposed lot sizes and lotting pattern and offers an alternative as shown in Staff's Exhibit 1. The alternative presented would result in the loss of seven lots; however, it would allow the lots to meet all the requirements of Section 27-548(h) while maintaining the same building envelope and the fee-simple lotting pattern desired by the applicant. Consequently, staff recommends **disapproval** of the variances from Section 27-548(h).

Conformance with the Prince George's County Landscape Manual (2010)

Per Section 27-544(a) of the Zoning Ordinance, landscaping, screening, and buffering for properties zoned M-X-T are subject to the provisions of the 2010 *Prince George's County Landscape manual* (Landscape Manual). Conformance with the requirements of the Landscape Manual should be determined at the time of DSP review when detailed information is submitted. The following discussion of the relevant provisions of the Landscape Manual is provided for informational purposes.

- a. **Section 4.1, Residential Requirements**—Section 4.1 requires a minimum number of trees be provided per residential lots, which can be provided on lots or in common open space for the single-family attached dwellings. This requirement will need to be met for the 44-proposed residential lots and will be evaluated at the time of DSP.
- b. **Section 4.7, Buffering Incompatible Uses**—This site will be subject to Section 4.7, Buffering Incompatible Uses. Specifically, on the properties southern and western boundaries with single-family homes in the R-R Zone. These buffer requirements will be evaluated at the time of DSP.
- c. **Section 4.9, Sustainable Landscaping Requirements**—This site will be subject to Section 4.9, which requires that a percentage of the proposed plant materials be native plants, along with other sustainable practices and will be evaluated at the time of DSP.
- d. **Section 4.10, Street Trees along Private Streets**—Section 4.10 provides specifics for the planting of street trees along private streets, which apply to the subject development. This will be evaluated at the time of DSP based on the detailed design of the community.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance (TCC), 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 or greater of GFA or disturbance and require a grading permit. The subject site is zoned M-X-T and is required to provide a minimum of 10 percent of the gross tract area to be covered by tree canopy. Compliance with this requirement will be further evaluated at the time of DSP review.

- 15. **Parks and Recreation**—This PPS was reviewed for conformance with the requirements and policies of the 2013 Subregion 5 Master Plan and SMA; the *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*; the approved Conceptual Site Plan (CSP-16005); and the Subdivision Regulations as they pertain to public parks and recreation facilities.

The Planning Board approved the Conceptual Site Plan (CSP-16005) in November 2017. The Department of Parks and Recreation staff reviewed and evaluated the CSP and recommended that at the time of the PPS, the staff would apply the requirements of Section 24-135(b) of the Subdivision Regulations, in order to satisfy the Mandatory Parkland requirements. The relevant portion of that requirement is related to the provision of private, on-site recreational facilities.

With the submission of this PPS, the plans indicate that there will be 5.3 acres of green space and a picnic area; both maintained by the homeowners' association (HOA). The applicant, however, submitted details to the Department of Parks and Recreation indicating that the recreational facility provided would be a playground for school-aged children. If the PPS is approved, the site will be subject to DSP review, and the details concerning the recreational facilities can be determined at that stage. The PPS should be revised to remove the "picnic sitting area" label and replace it with "recreational facility area"

Staff recommends the provision of private on-site recreational facilities that will be adequate to serve the recreational needs of this community.

16. **Stormwater Management**—An approved SWM plan (38664-2016-01) and approval letter was submitted with the subject application and was approved on August 11, 2017 with conditions, requiring the use of micro-bioretention and a fee-in-lieu of \$11,500.00. The concept approval expires August 11, 2020. Development shall conform with the SWM concept approval and any subsequent revisions to ensure no on-site or down stream flooding occurs.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
 - a. Remove "The picnic sitting area" and replace with "recreational facility area."
 - b. Reconfigure the lots to meet the requirements of the M-X-T Zone, in accordance with Staff Exhibit 1.
 - c. Include an eight-foot-wide sidepath (or wide sidewalk) along the subject site's entire frontage of Dyson Road, unless modified by the Prince George's County DPIE.
 - d. Rename Parcel D to Outparcel 1.
 - e. Note that preliminary plan of subdivision is for the residential phase (Phase I) of the mixed-use development approved with CSP-16005.
 - f. Revise the use labeled on abutting Parcel 4, if determined not to be a road.
2. A substantial revision to the mix of uses on the subject property that affects Subtitle 24 adequacy findings, as set forth in a resolution of approval, shall require the approval of a new preliminary plan of subdivision prior to the approval of any building permits.

3. Development of the site shall be limited to uses that would generate no more than 32 AM and 37 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
4. Development of this site shall be in conformance with the approved SWM concept plan (38664-2016-01) and any subsequent revisions. The final plat shall note the approved stormwater management concept number and approval date.
5. Prior to approval of any building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowner's association (HOA) land as identified on the approved preliminary plan of subdivision and detailed site plan. Land to be conveyed shall be subject to the following:
 - a. A copy of the deed for the property to be conveyed shall be submitted to the Subdivision and Zoning Section of the Development Review Division (DRD), Upper Marlboro, Maryland.
 - b. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - c. The conveyed land shall not suffer the disposition of construction materials, soil filling, other than the placement of fill material associated with permitted grading operation that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
 - d. Any disturbance of land to be conveyed to an HOA shall be in accordance with an approved site plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to an HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD in accordance with the approved detailed site plan.
 - f. The Prince George's County Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
6. At the time of building, a permit for each single-family attached residential unit, a fee calculated as \$1,338 by (Engineering News Record Highway Construction Cost index at time of payment) / (Engineering News Record Highway Construction Cost Index for first quarter, 1993), as shown in accordance with Council Resolution CR-9-2017, shall be determined. All fees shall be paid to Prince George's County (or its designee), to be indexed by the appropriate cost indices to be determined by DPIE.
7. Prior to the approval of any building permit for the subject property, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that the following adequate pedestrian and bikeway facilities as designated below or as modified by DPW&T/DPIE/DPR, in

accordance with Section 24-124.01 of the Subdivision Regulations, have (a) full financial assurances, (b) have been permitted for construction through the applicable operating agency's access permit process, and (c) have an agreed-upon timetable for construction and completion with the appropriate operating agency:

- a. Construct the off-site sidewalk along Dyson Road as shown on the bicycle and pedestrian impact statement exhibit. Costs for the off-site improvement are subject to the \$13,200 cost cap specified in Section 24-124.01(c) of the Subdivision Regulations.
8. At the time of detailed site plan, an exhibit shall be provided that illustrates the location, limits, and details of the off-site sidewalk construction and any necessary with Americans with Disabilities Act (ADA) ramps, consistent with Section 24-124.01(f).
9. The applicant and the applicant's heirs, successors and/or assignees shall provide private on-site recreation facilities in accordance with the standards outlines in the Park and Recreational Facilities Guidelines and allocate appropriate and developable areas for the private on-site recreational facilities within the common open space land. The recreational facilities shall be reviewed by the Urban Design Section, of the Development Review Division of the M-NCPPC Planning Department for adequacy and proposer siting with the submittal of the detailed site plan.
10. Prior to the issuance of any building permits, the applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on-site.
11. Prior to approval of a final plat:
 - a. The applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners' association has been established. The draft covenants shall be submitted to the Subdivision and Zoning Section to ensure that the rights of The Maryland-National Capital Park and Planning Commission (M-NCPPC) are included. The Liber/folio of the declaration of covenants shall be noted on the final plat prior to recordation.
 - b. The final plat shall grant a 10-foot-wide public utility easement along Dyson Road and the internal private streets in accordance with the approved preliminary plan of subdivision.
 - c. The final plat shall note the Planning Board's approval of a variation from Section 24-128(b)(12) for the location of public utility easements.
 - d. The final plat shall reflect right-of-way dedication 25 feet from the centerline of Dyson road in accordance with the approved preliminary plan of subdivision.
 - e. A conservation easement shall be described by bearings and distances. The conservation easement shall contain the floodplain, as determined by DPIE on April 16, 2018, and all stream buffers and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior

written consent from the M–NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

12. Prior to signature approval of the preliminary plan of subdivision, the TCP1 shall be revised as follows:

- a. Insert “T. Burke; CSP-16005; 2/14/2018; Conceptual Townhouse Community” as the (-01) approval information in the TCP1 approval block. Update the (-02) R-O-W to provide PPS 4-16026 as the Development Review Division (DRD) case, and “Preliminary Plan application” for the purpose of this revision.
- b. Correct the approved stormwater concept plan number in Note 10, Sheet 1, to “38664-2016-01.”
- c. Have the revised plan signed and dated by the qualified professional preparing the plan.

13. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan, TCP1-005-2018. The following note shall be placed on the final plat of subdivision:

“Development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan, TCP1-029-94-02, 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 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.”

14. The applicant and the applicant’s heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFA) to the Development Review Division (DRD) for construction of recreational facilities on site, including appropriate triggers for construction for approval prior to the submission of final plats. Upon approval by DRD, the RFA shall be recorded among the Prince George’s County Land Records.

STAFF RECOMMENDS:

- Approval of Preliminary Plan of Subdivision 4-16026
- Approval of Type 1 Tree Conservation Plan TCP1-029-94-02
- Approval of a Variation from Section 24-128(b)(12)
- Approval of a Variance from Section 25-122(b)(1)(G)
- Disapproval of a Variance from Section 27-548(h)