



The Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Development Review Division  
301-952-3530

Note: Staff reports can be accessed at <http://mncppc.igmp2.com/Citizens/Default.aspx>

## Preliminary Plan of Subdivision The Preserve at Westphalia

4-17034

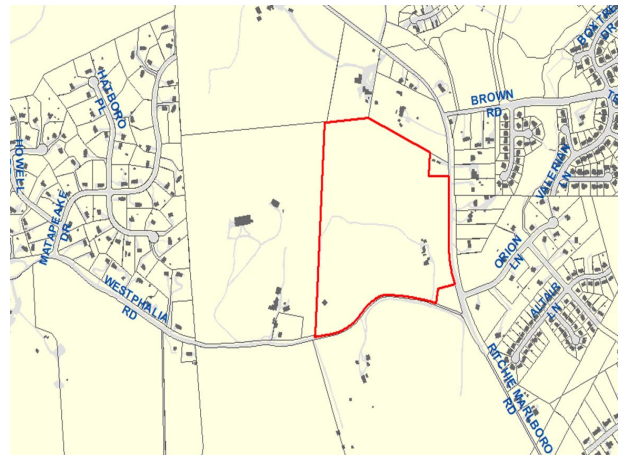
REQUEST	STAFF RECOMMENDATION
292 lots and 25 parcels for single-family detached and attached dwelling units and approximately 12,500 square feet of commercial development.	APPROVAL with conditions
Variance to Section 25-122(b)(1)(G) Variance to Section 27-480(d) Variation from Section 24-128(b)(7)(A)	APPROVAL APPROVAL APPROVAL

**Location:** In the northwest quadrant of the intersection of Westphalia Road and Ritchie Marlboro Road.

Gross Acreage:	63.66
Zone:	L-A-C & R-M
Gross Floor Area:	12,500 sq. ft.
Lots:	292
Parcels:	25
Planning Area:	78
Council District:	06
Election District:	15
Municipality:	N/A
200-Scale Base Map:	204SE10

**Applicant/Address:**  
Green Revolution Realty, LLC  
7419 Baltimore Annapolis Boulevard  
Glen Burnie, MD 21061

**Staff Reviewer:** Thomas Sievers  
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Planning Board Date:	05/28/2020
Planning Board Action Limit:	07/28/2020
Mandatory Action Timeframe:	140 days
Staff Report Date:	05/21/2020
Date Accepted:	03/10/2020
Informational Mailing:	02/21/2019
Acceptance Mailing:	03/05/2020
Sign Posting Deadline:	04/28/2020

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at [http://www.mncppcapps.org/planning/Person\\_of\\_Record/](http://www.mncppcapps.org/planning/Person_of_Record/). Please call 301-952-3530 for additional information.

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THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-17034  
Type 1 Tree Conservation Plan TCP1-002-2018-01  
The Preserve at Westphalia

**OVERVIEW**

The subject property is located at the northwest quadrant of the intersection of Westphalia Road and Ritchie Marlboro Road. The property consists of 63.66 total acres, with 19.45 acres in the Local Activity Center (L-A-C) Zone and 44.21 acres in the Residential Medium Development (R-M) Zone and is subject to the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA). This preliminary plan of subdivision (PPS) includes Parcel 26 in its entirety, recorded in Liber 39463 folio 560. The site is currently developed as a farm, having associated outbuildings and a single-family dwelling.

The applicant is requesting approval of 292 lots and 25 parcels for 184 single-family attached units (36 units in the R-M Zone and 148 units in the L-A-C Zone) and 108 single-family detached units (96 units in the R-M Zone and 12 units in the L-A-C Zone), with 12,500 square feet of commercial development (in the L-A-C Zone). The proposed development is subject to a PPS, in accordance with Section 24-107 of the Prince George's County Subdivision Regulations.

Section 27-480(d) of the Prince George's County Zoning Ordinance restricts the number of townhouse units per building group. The applicant requests a variance to allow 45 percent of the groupings to exceed 6 units and to allow 3 groupings of more than 9 units (not to exceed 10 units), which is discussed further in this report

Section 25-122(b)(1)(g) of the 2010 Prince George's County Woodland Conservation Ordinance (WCO) requires that the preservation of specimen trees, champion trees, or trees that are associated with an historic site or structure have their critical root zones protected through judicious site design. The applicant requests approval of a variance for the removal of one specimen tree, which is discussed further in this report.

Section 24-128(b)(7)(A) of the Subdivision Regulations requires that lots in the R-M and L-A-C Zones have frontage on a public street when provided vehicular access from an alley. The applicant requests approval of a variation from Section 24-128(b)(7)(A), to allow 137 townhouse lots to be served by alleys without frontage a public street.

Staff recommends **APPROVAL** of the PPS with conditions, variances, and variation, based on the findings contained in this technical staff report.

## SETTING

The property is located on Tax Map 83 in Grid C-4, in Planning Area 78, and is zoned R-M and L-A-C. The subject property is part of a larger property known as The Villages at Westphalia, referenced as Sector Plan Development Concept 4 of the Westphalia Sector Plan and SMA. The site is bounded to the north by residentially zoned and developed properties in the Residential-Estate (R-E) and the R-M Zones; to the west by the rest of the property of the Villages at Westphalia in the R-M and L-A-C Zones; to the south by the right-of-way (ROW) of Westphalia Road, with residential development in the R-E and R-M Zones beyond; and to the east by the ROW of Ritchie Marlboro Road, with residential development in the R-E Zone beyond.

## 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	R-M/L-A-C	R-M/L-A-C
Use(s)	Residential/Farm	Residential/Commercial
Acreage	63.66	63.66
Lots	0	292
Parcels	1	25
Dwelling Units	1	292
Gross Floor Area	0	12,500 sq. ft.
Variance	No	Yes Section 25-122(b)(1)(g) Section 27-240(d)
Variation	No	Yes Section 24-128(b)(7)

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 3, 2019. The variation request from Section 24-128(b)(7) was received on May 8, 2019. The variation was heard before SDRC on April 3, 2020, as required, in accordance with Section 24-113 of the Subdivision Regulations.

2. **Previous Approvals**—Comprehensive Design Plan CDP-1701 was previously approved for this site by the Prince George's County Planning Board (PGCPB Resolution No. 18-71) and affirmed by the Prince George's County District Council on October 15, 2018, subject to seven conditions. The conditions that are relevant to the review of this application are discussed in detail in this technical staff report.
3. **Community Planning**—Conformance with *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and the Westphalia Sector Plan and SMA are evaluated, as follows:

## **Plan 2035**

This application is in the Established Communities area designated in Plan 2035. The vision for the Established Communities area is most appropriate for context-sensitive infill and low- to medium-density development (page 20).

## **Sector Plan**

The Westphalia Sector Plan and SMA reclassified the subject property into the R-M and L-A-C Zones. The sector plan recommends low-density residential, neighborhood-oriented commercial and institutional, and public/private open space land uses on the subject property.

Staff finds that, pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application conforms to the sector plan.

4. **Stormwater Management**—An unapproved Stormwater Management (SWM) Concept Plan (43456-2017-01) currently under review with the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) was submitted with the subject application. According to the proposed plan, two submerged gravel wetlands are proposed with 17 micro-bioretenion facilities, along with a series of two bioswales, to provide stormwater retention and attenuation on-site before discharging into tributaries of the Turkey Branch. An approved concept plan must be submitted for review at the time of specific design plan (SDP).

Development of the site shall conform with the SWM concept approval, and any subsequent revisions, to ensure no on-site or downstream flooding occurs.

5. **Parks and Recreation**—This PPS was reviewed for conformance with the requirements and recommendations of the Westphalia Sector Plan and SMA; the Land Preservation, Parks and Recreation Plan for Prince George's County; CDP-1701; and Subtitle 24 of the Prince George's County Subdivision Regulations, as they pertain to public parks and recreational facilities.

The subject property consists of 63.66 acres of land located in the northwest quadrant of the Westphalia Road and Ritchie Marlboro Road intersection in Upper Marlboro, Maryland. The property is zoned R-M and L-A-C and is not adjacent to existing Maryland-National Capital Park and Planning Commission (M-NCPPC) parkland. The purpose of this PPS is to subdivide the property for residential and commercial purposes by providing 292 lots and 25 parcels of land. The 292 lots will consist of 184 single-family attached (townhouse) dwelling units and 108 single-family detached dwelling units. Using current occupancy statistics for single-family dwelling units for this planning area, the proposed development will generate an increase in population of approximately 800 new residents to the community.

The Westphalia Sector Plan and SMA rezoned this property in 2007 from Residential-Agricultural (R-A) to R-M and L-A-C, with the anticipation that the development of this property under these zones would promote the implementation of the visions, goals, and policies of the sector plan. The sector plan envisioned this property as a combination of mixed residential, commercial, institutional, and park uses.

**Existing Parkland in the Area**

The subject property is not adjacent to any existing M-NCPPC-owned property or parks. The closest parks to this development are Westphalia Central Park, approximately one mile southwest, and Westphalia Community Center, which is approximately two miles west of the subject property, both accessible from Westphalia Road. The recreational facilities in Westphalia Community Center include a 16,000-square-foot community center, tennis court, basketball court, playground, and fitness trail. The residents of this development will be able to use this community center and the recreational facilities located there. The residents of this development will also be able to access and use Westphalia Central Park.

**Westphalia Sector Plan Conformance**

The Westphalia Sector Plan goals, policies, and strategies related to the Park and Recreational issues are:

- Create public and private parks, open space, and recreational facilities sufficient to meet the needs of the current and future residents of the Westphalia Sector Plan area.
- Create a park system consisting of 1,850 acres of public and private parks and green spaces.
- Ensure development of the parks system that results in central green spaces, which serve to unite the Westphalia community and its surrounding neighborhoods.
- Designate the Westphalia Central Park and Cabin Branch Greenway as community focus areas. These parks should become a regional draw, an icon for Westphalia.
- Ensure major development projects are adequately integrated into the implementation of the sector plan parks system recommendations.
- Ensure the proper financing, construction, and maintenance of the proposed park system.
- Develop and finalize a comprehensive public facilities plan that includes detailed recommendations for financing mechanisms, phasing, construction, and maintenance of the proposed park facilities.
- Ensure parks, streets, and public squares are all designed to accommodate community parades, festivals, and other events.
- Establish a park fee of \$3,500 (in 2006 dollars) for each new dwelling unit built in the Westphalia Sector Plan area to fund construction of the public parks facilities recommended in the sector plan.
- Form a multi-agency public/private work group to implement the vision for the Westphalia Central Park, on an expedited basis.

The Westphalia Sector Plan introduced the concept of a Central Park, a single major recreational complex serving the entire Westphalia area. The sector plan recommends developing the Central Park with recreational amenities, such as a recreational lake, active

and passive recreational facilities, lawn areas and bandstands suitable for public events, a trail system, group picnic areas, and tennis facilities. The Westphalia Central Park is 275 acres of open space. The developer of the Parkside (also known as Smith Home Farm) subdivision dedicated 126 acres of parkland and 149 acres of additional parkland was acquired by M-NCPPC from the Suit Farm. In addition, M-NCPPC is actively pursuing additional parkland acquisition to the north, in order to enlarge its original size and scope of Westphalia Central Park and expand the park to Westphalia Road to provide secondary access to this major park. The Preserve at Westphalia project is located one mile from the Westphalia Central Park. The Central Park will be accessible to the residents of this community through a system of roads and hiker/biker trails along existing Westphalia Road and ultimately proposed MC-631. This large urban park will serve as a unifying community destination and an amenity for the entire Westphalia Sector Plan area.

### **Westphalia Park Club**

The sector plan recommends developing the Central Park with recreational amenities such as a recreational lake, active and passive recreational facilities, lawn areas and bandstands suitable for public events, a trail system, group picnic areas, and tennis facilities. In anticipation of Westphalia Central Park, the Westphalia Sector Plan addressed the funding for development of the Central Park. The developers of Smith Home Farm, Westphalia Town Center, Westphalia East, Moore Property, Cabin Branch Village, and Enclave at Westphalia are committed to the implementation of the sector plan park system recommendations:

- Smith Home Farm–Dedication of parkland. Monetary contribution of \$3,500 per dwelling unit (in 2006 dollars). Private recreational facilities on-site.
- Westphalia Town Center–Monetary contribution of \$3,500 per dwelling unit (in 2006 dollars). Private recreational facilities on-site. Private recreational facilities in the project area.
- Moore Property–Monetary contribution of \$3,500 per dwelling unit (in 2006 dollars). Private recreational facilities on-site.
- Cabin Branch Village–Monetary contribution of \$3,500 per dwelling unit (in 2006 dollars). Private recreational facilities on-site.
- Enclave at Westphalia–Monetary contribution of \$3,500 per dwelling unit (in 2006 dollars). Private recreational facilities on-site.

The monetary contribution for the construction of the recreational facilities in the Central Park will provide the resources to create a unique focal area in the planned community, with surrounding developments overlooking the parkland and the roads and trails connecting to the park.

The developer of the Parkside project dedicated approximately 126 acres of parkland, along with processing SDP-1101 for development of the park, and provided in-kind services for construction of the Phase 1 recreational facilities within the Central Park. This SDP includes an array of active and passive recreational facilities within the Central Park such as an amenity pond; promenade; plaza; cloud structure; performance lawn; an amphitheater for public events; a tennis court; an imagination playground; restrooms; 139-space parking lot; a dog park; group picnic areas; formal gardens; and an extensive pedestrian, bicycle, and

equestrian trail network. The Central Park will provide recreational opportunities to all residents in the Westphalia Sector Plan area, as well as establish pedestrian and bicycle connectivity to the town centers and surrounding residential development. The Parkside developer also substantially completed Phase 1 grading of the park and amenity pond construction in 2019.

Currently, approximately \$5,900,000.00 has been collected into Westphalia Park Club from various developments in the sector plan area. It is anticipated that the Phase 1 construction will cost approximately \$12,900,000.00, in accordance with the findings and conditions of approved CDP-0501. The contribution of funds into the Park Club from each new development in the Westphalia Sector Plan area is essential to implementing the vision of the sector plan to create a large urban park which will serve as a unifying community destination and an amenity for the entire Westphalia Sector Plan area. Contribution to the Westphalia Park Club is recommended for this subdivision, in conformance with the sector plan.

#### **Mandatory Dedication of Parkland**

As per Section 24-134(a)(1) of the Subdivision Regulations, mandatory dedication of parkland applies to the residential portion of this development proposal. Based on the density of the residential portion of the proposed subdivision, the applicant is required to dedicate 7.5 percent of their land to M-NCPPC for public parks. In this case, application of the mandatory dedication of parkland requirement would require the dedication of 3.92 acres of land to M-NCPPC. The applicant's proposal is for the mandatory dedication requirements to be met by providing on-site recreational facilities.

The applicant has provided a list of on-site recreational facilities to include a clubhouse, playgrounds, and pocket parks/sitting areas. The details of these facilities will be provided and reviewed with the SDP application. These on-site facilities will be constructed within the development and available to residents. The provision of these facilities is consistent with recommendations made with CDP-1701 and will satisfy the mandatory dedication of parkland requirement for this subdivision.

The combination of on-site private recreational facilities and a monetary contribution of \$3,500 per dwelling into a park club, for construction and maintenance of the recreational facilities in the Westphalia Central Park, the single major recreational complex serving the entire Westphalia area, will satisfy the recreational needs of this development.

6. **Trails**—This PPS was reviewed for conformance with the *Approved Countywide Master Plan of Transportation* (MPOT) and the Westphalia Sector Plan and SMA, to provide the appropriate pedestrian and bicycle transportation recommendations. The project is not subject to Section 24-124.01 of the Subdivision Regulations. The site abuts Ritchie Marlboro Road and Westphalia Road, both master plan roadways (A-39 and C-626, respectively). Two paths are planned, one side path along Ritchie Marlboro Road and one side path along Westphalia Road.

#### **Previous Conditions of Approval**

The subject site has the following prior condition of approval from CDP-1701 related to bicycle and pedestrian transportation:



4. **The applicant and the applicant heirs, successors, and/or assignees shall provide the following:**
  - a. **A shared-use side path (or wide sidewalk) along the subject site's entire frontage of Ritchie Marlboro Road, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement.**
  - b. **Standard sidewalks along both sides of all internal roads (excluding alleys), unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement.**

All roads, except Road G in the submitted plans, include sidewalks on both sides. There is a proposed 8-foot-wide sidewalk along Ritchie Marlboro Road. Staff recommends sidewalks along both sides of all roads, excluding alleys.

#### **Review of Proposed On-Site Improvements**

The proposed development includes five-foot-wide sidewalks along both sides of all internal roadways, except Road G. Eight-foot-wide sidewalks are proposed along the frontages of Ritchie Marlboro Road and the portion of Westphalia Road that is not impacted by the proposed relocation of the roadway. The proposed development also includes crosswalks at the site entrances/exits and throughout the site.

#### **Review of Connectivity to Adjacent/Nearby Properties**

The subject site is adjacent to residential areas with planned, but no current pedestrian, or bicycle facility connections.

#### **Review of Master Plan of Transportation Compliance**

Two master plan trails impact the subject site; planned shared-use paths and on-road bicycle facilities along Ritchie Marlboro Road and Westphalia Road. The Complete Streets element of the MPOT reinforces the need for multimodal transportation and include the following policies regarding the accommodation of pedestrians and bicyclists (pages 9–10):

**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*.**

Sidewalk is proposed throughout the subject site and fulfills the intent of Policy 1. The submitted plans reflect the recommended side path facility along Ritchie Marlboro Road. Staff further recommends on-road bicycle lanes, consistent with the MPOT-recommended facilities. A side path is recommended along Westphalia Road; however, the road is

proposed to be relocated. There is only a small portion of the realigned Westphalia Road that is within the subject site. The submitted plans show this portion with an 8-foot-wide sidewalk. Staff further recommends on-road bicycle lanes along this portion of Westphalia Road, consistent with MPOT-recommended facilities. The side path and on-road bicycle facilities on the remaining portion of the road can be constructed when that portion of Westphalia Road is rebuilt. These facilities fulfill the intent of Policy 2.

Staff recommends continental style crosswalks crossing Road A at its intersection with Ritchie Marlboro Road, crossing Road B at its intersection with Westphalia Road, and crossing Road E at its intersection with Westphalia Road. Staff further recommends providing standard crosswalks crossing at all legs of the intersection of Roads A and C; crossing all legs of the intersection of Roads D and F; crossing the southern leg of Road B at its intersection with Road A; at the southern leg of Road D at its intersection with Road A; and crossing the southern and eastern legs of the intersection of Roads D and E, unless modified by DPIE. These improvements will provide a continuous pedestrian connection throughout the subject site and to the proposed facilities along the frontages of Ritchie Marlboro Road and Westphalia Road.

Staff also recommends shared roadway markings, sharrows, be included along Roads A, D, and E to support the surrounding recommended bicycle facilities, unless modified by DPIE. These recommendations fulfill the intent of Policy 4.

#### **Review of Sector Plan Compliance**

The Westphalia Sector Plan and SMA includes the following recommendation related to pedestrian and bicycle transportation:

- Sidewalks should be provided throughout the Westphalia community, except on designated scenic rural roads, highways, bikeways, trails, and lanes.

The subject site plan shows sidewalk on nearly all internal roads and road frontages and fulfills the intent of the recommendation above.

Staff concludes that the proposed pedestrian and bicycle transportation facilities will adequately serve the proposed subdivision, as required under the Subdivision Regulations, subject to the recommended conditions.

7. **Transportation**—The subject property is currently unimproved and is located within Transportation Service Area 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 D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation per Section 24-124(a)(6), is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the Transportation Review Guidelines, Part 1 (Guidelines).

**Unsignalized Intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted.

A three-part process is employed for two-way stop-controlled intersections:

- (a) Vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections:
- (b) Vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed.

### Analysis of Traffic Impacts

The application is a PPS for residential dwelling units and retail development. Table 1 below summarizes trip generation in each peak hour that will be used in reviewing traffic and developing a trip cap for the site:

<b>Table 1</b>							
<b>Trip Generation Summary</b>							
Land Use	AM Peak Hour			PM Peak Hour			Daily
	In	Out	Tot.	In	Out	Tot.	
Shopping Center (ITE-942) - 12,500 sq. ft.	98	60	158	56	61	117	472
<i>Less 50% Pass by Trips</i>	<i>49</i>	<i>30</i>	<i>79</i>	<i>28</i>	<i>31</i>	<i>59</i>	<i>236</i>
<b>Primary Trips</b>	<b>49</b>	<b>30</b>	<b>79</b>	<b>28</b>	<b>30</b>	<b>58</b>	<b>236</b>
108 Single-Family units (Guidelines)	16	65	81	63	34	97	972
184 Townhomes (Guidelines)	26	103	129	96	51	147	1472
<b>Total trip</b>	<b>91</b>	<b>198</b>	<b>289</b>	<b>187</b>	<b>115</b>	<b>302</b>	<b>2680</b>

Staff is in receipt of a February 2020 traffic impact study (TIS), where the critical intersections were identified and analyzed under existing, background, and total conditions:

<b>EXISTING CONDITIONS</b>		
<b>Intersection</b>	<b>AM</b>	<b>PM</b>
	LOS/CLV/delay	LOS/CLV/delay
Ritchie Marlboro Road and Westphalia Road *	66.3 seconds	100.9 seconds
Ritchie Marlboro Road and Orion Lane *	26.3 seconds	20.7 seconds
Ritchie Marlboro Road and White House Road	B/1049	A/930
Ritchie Marlboro Road and Sansbury Road	B/1078	A/996
Ritchie Marlboro Road and MD 4	E/1489	D/1310
Westphalia Road and D'Arcy Road *	22.3 seconds	23.3 seconds
* Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition.		

In evaluating the effect of background traffic, staff included 16 background developments in the area. Based on a regional growth rate of one percent per year for six years, a second analysis was done. The table below shows the results:

<b>BACKGROUND CONDITIONS</b>		
<b>Intersection</b>	<b>AM</b>	<b>PM</b>
	LOS/CLV/delay	LOS/CLV/delay
Ritchie Marlboro Road and Westphalia Road-Orion Road*	438.4 seconds	204.0 seconds
Ritchie Marlboro Road and White House Road	C/1185	B/1081
Ritchie Marlboro Road and Sansbury Road	B/1047	D/1407
Ritchie Marlboro Road and MD 4	F/2060	F/2078
Westphalia Road and D'Arcy Road*	67.9 seconds	289.1 seconds
*Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. If delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition.		

Using projected trip generation identified in Table 1, the total traffic analysis indicates the following results:

<b>TOTAL CONDITIONS</b>		
<b>Intersection</b>	<b>AM</b>	<b>PM</b>
	LOS/CLV/delay	LOS/CLV/delay
Ritchie Marlboro Road and Westphalia Road-Orion Road* <i>Tier 3 – CLV Test</i>	507.2 seconds <b>C/1289</b>	823.5 seconds <b>D/1383</b>
Ritchie Marlboro Road and White House Road	C/1243	B/1143
Ritchie Marlboro Road and Sansbury Road	B/1084	D/1441
Ritchie Marlboro Road and MD 4	<b>F/2087</b>	<b>F/2112</b>
Westphalia Road and D’Arcy Road* <i>Tier 3 – CLV Test</i>	85.9 seconds B/1091	356.8 seconds A/777
Ritchie Marlboro Road and Site Access A <i>Tier 2 – Minor Street Volume</i>	423.9 seconds <100 seconds	258.1 seconds <100 seconds
Westphalia Road and Site Access B	15.3 seconds	11.2 seconds
Westphalia Road and Site Access C	15.1 seconds	11.1 seconds
*Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the intersection delay measured in seconds/vehicle. A maximum delay of 50 seconds/car is deemed acceptable. if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. If the CLV falls below 1,150 for either type of intersection, this is deemed to be an acceptable operating condition. If it exceeds 1,150, a signal warrant study will be required,		

Results from the total traffic analysis revealed the following:

- The Westphalia Road/D’Arcy Road unsignalized intersection will operate adequately when analyzed under the Tier 3 CLV test. This intersection will operate with a CLV in each peak hour that is below the 1,150-threshold. Pursuant to the Guidelines, no further action will be required.
- The intersection of MD 4 (Pennsylvania Avenue) and Westphalia Road was found to be operating inadequately at all phases of the adequacy evaluations. This intersection has a previously approved Public Facilities Financing and Implementation Program (PFFIP) funding mechanism in place that will ultimately provide for an upgrade to a grade separated interchange, with interim improvements occurring until that point. It is recommended in the TIS that a condition be approved allowing the applicant to contribute funds to the PFFIP in lieu of off-site improvements at this intersection. This issue will be discussed further.

#### **Westphalia Public Facilities Financing and Implementation Program (PFFIP)**

Given the inadequate levels of service calculated for the intersection of MD 4 and Westphalia Road-Old Marlboro Pike, staff recommends that the applicant provide a monetary contribution towards the construction of the planned interchange at the MD 4/ Westphalia Road intersection. If this contribution is made, the development would meet the requirements for transportation adequacy, pursuant to Subtitle 24 of the Prince George’s County Code.

On October 26, 2010, the Prince George's County Council approved CR-66-2010, establishing a PFFIP district for financing and construction of the MD 4/Westphalia Road interchange. Pursuant to CR-66-2010 (Sections 6, 7, and 8) staff prepared a cost allocation table that allocates the estimated \$79,990,000 cost of the interchange to all the properties within the PFFIP district. CR-66-2010 also established \$79,990,000 as the maximum cost on which the allocation can be based. The allocation for each development is based on the proportion of average daily trips (ADT) contributed by each development passing through the intersection, to the total ADT contributed by all the developments in the district passing through the same intersection. The ratio between the two sets of ADT becomes the basis on which each development's share of the overall cost is computed.

Using data from the *Trip Generation Manual, 10th edition* (Institute of Transportation Engineers), as well as the Guidelines, this development is projected to generate 2,680 ADTs. Based on trip distribution used in the TIS, it has been determined that 20 percent of the site traffic is oriented to and from the west, along Westphalia Road. Consequently, in applying that distribution, it has been determined that the total ADT that will pass through the MD 4/Westphalia intersection will be 536 (2,680 x 0.20). Given the difference in trip generation rates (see Table 1) between residential and retail uses, those 536 ADTs will be broken down as 489 for residential and 47 associated with the retail use. Based on 536 daily trips, this site's contribution for the PFFIP was computed as \$483,928.57 for the residential, and \$46,512.56 (all in 2010 dollars) for the retail use. The unit cost is further computed as \$1,657.29 per dwelling unit and \$3.72 per square foot. A spreadsheet provides greater detail of this computation and is included in the backup of this technical staff report.

#### **Master Plan and Site Access**

The property is in an area where the development policies are governed by the Westphalia Sector Plan and SMA, as well as the MPOT. The subject property currently fronts on Ritchie Marlboro Road, which is designated as a master plan arterial (A-39) road within a 120-foot wide ROW. The property also fronts on Westphalia Road, a proposed collector (C-626) road within an 80-foot-wide ROW. Much of Westphalia Road, along the property's frontage, will be realigned to the south of its current location. The applicant proposes to dedicate ROWs, along both Westphalia Road and Ritchie Marlboro Road, which will be sufficient to accommodate future widenings of both roads.

All other aspects of the site regarding access and layout are deemed to be acceptable.

#### **Variation Request**

**Section 24-128: Private Roads and Easement**—The PPS proposes 184 single-family attached units, all of which are rear loaded and served by private alleys. Forty-seven of these lots have frontage on a public street; the remaining 137 do not front on, or have direct vehicular access to, a public street. Instead, these lots are proposed to front on private streets or open space. These lots will be provided pedestrian access to the public street system via a network of sidewalks within the private streets and open spaces which they will front on. A variation from Section 24-128(a) has been filed with the subject application and is required, in order to permit the applicant's proposed development.

- (a) **No subdivision plan or plan of development (however designated) shall be approved that provides for a private road, right-of-way, or easement as the means of vehicular access to any lot, and no building permit shall be issued for**

the construction of any building in a subdivision unless such building is to be located on a lot or parcel of land having frontage on and direct vehicular access to a public street, except as hereinafter provided.

- (b) The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:

(7) In Comprehensive Design and Mixed-Use Zones:

- (A) For land in the V-L, V-M, R-L, R-S, R-M, R-U, M-U-I, L-A-C, M-A-C, M-X-C, M-U-TC, and M-X-T Zones, the Planning Board may approve a subdivision (and all attendant plans of development) with private roads to serve attached single-family dwellings, two-family dwellings, and three-family dwellings, but not single-family detached or multifamily dwellings, in accordance with the requirements of Subsections (e) and (f) of Section 27-433 of the Zoning Ordinance, except as hereinafter provided. In all of the above zones, and in the R-R Zone when developed as a cluster subdivision, the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way. The District Council may disapprove the inclusion of alleys during the consideration of the detailed site plan for a cluster subdivision. For the purposes of this Section, an "alley" shall mean a road providing vehicular access to the rear or side of abutting lots, and which is not intended for general traffic circulation.

Forty-seven of the proposed townhouse lots (Block E Lots 31–51 and Block F Lots 20–45) have frontage on and pedestrian access to, public streets D and E shown on the PPS; therefore, these lots satisfy the Subdivision Regulations and a variation is not needed. The remaining 137 townhouse lots, listed below, do not have frontage on a public street. A variation from Section 27-128(b)(7)(A) is requested. Townhouse lots, which are proposed to front on private streets and open space and for which the variation is requested, are as follows:

Block D	Lots 6–22
Block E	Lots 1–30, Lots 52–59
Block F	Lots 3–19, Lots 46–86
Block G	Lots 4–27

**Variation Findings**

Section 24-113 requires that the following criteria are met for approval of a variation. The criteria are in **BOLD** text below, while staff findings for each criterion are in plain text.

- (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 will not be detrimental to the public safety, health, or welfare, or injurious to other property;**

All private streets are designed to accommodate fire, rescue, and service vehicles. Private Road G includes on-street parking and 22-foot-wide travel lanes in a 50-foot-wide ROW that provides unimpeded access for emergency and service vehicles. All homes will access close-by private streets via alleys, and from there have unimpeded access to Westphalia Road and Ritchie Marlboro Road. No impacts to public safety, health, or welfare are indicated, nor is there evidence that the proposal will be injurious to other properties.

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

The Westphalia Sector Plan and SMA rezoned a number of properties in the area. This property and its neighbor to the west were placed in the R-M and L-A-C Zones. The property is encumbered by streams and significantly rolling terrain. This requirement is problematic. To achieve the densities envisioned by the sector plan, and to create the urban form development envisioned, with rear-loaded garages and parking for homeowners in the alleys and guest parking on the street, a variation is necessary. DPIE will not take public control of streets serving townhouses with on-street parking. A neotraditional townhouse layout is proposed on this property, in this location, which is severely encumbered by environmental constraints. This creates conditions that are unique to the property and not generally applicable to other properties.

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

There is no other applicable law, ordinance, or regulation that approval of this variation would violate. The approval of a variation from the Subdivision Regulations is within the sole authority of the Planning Board. Private streets have been designed to accommodate fire, rescue, and service vehicles and the variation request was referred to the appropriate County agencies for commenting.

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



The property is encumbered by considerably rolling terrain, streams, and Marlboro clay. The issue comes with the requirements for alley-served lots to have frontage on a public street. The internal streets are lined with townhouses and will have direct vehicular access from alleys. These internal streets are aptly private, with pedestrian access that ultimately connects to public spaces. Denial of the variation request, and the application of the strict letter of the regulations, would result in a complete redesign of the development and proliferation of roadways, which are not necessary to adequately serve the development; therefore, the denial would create an undue hardship on the applicant rather than a mere inconvenience.

- (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.**

This subpart is not applicable because the site is zoned R-M and L-A-C.

Staff finds that the site is unique to the surrounding properties and the variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which is to guide development according to the sector plan and to provide efficient and appropriate locations for streets.

Therefore, staff recommends **approval** of the variation from Section 24-128(b)(7)(A) to allow 137 units served by alleys without frontage on a public ROW.

Based on the preceding findings, the Transportation Planning Section determines that the plan conforms to the required findings for approval of the PPS from the standpoint of transportation, subject to the recommended conditions contained in this technical staff report.

8. **Schools**—This PPS was reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2001. The subject property is located within Cluster 4, as identified in the Pupil Yield Factors and Public School Clusters 2020 update, which is located outside I-95/I-495 (Capital Beltway). Staff has conducted an analysis and the results are as follows:

**Impact on Affected Public School Clusters  
Single-Family Attached/Detached Dwelling Units**

<b>Affected School Clusters #</b>	<b>Elementary School Cluster 4</b>	<b>Middle School Cluster 4</b>	<b>High School Cluster 4</b>
Single-Family Detached Dwelling Units (TDU):	108	108	108
Single-family Detached Pupil Yield Factor (PYF):	0.158	0.098	0.127
TDU * PYF	17.064	10.584	13.716
Total Future Single-family Detached Subdivision Enrollment	17	11	14
Single-family Attached Dwelling Units (TDU):	184	184	184
Single-family Attached Pupil Yield Factor (PYF):	0.114	0.073	0.091
TDU * PYF	20.976	13.432	16.744
Total Future Townhouse Subdivision Enrollment	21	13	17
Total Future Subdivision Enrollment	38	24	31
Adjusted Enrollment in 2019	12927	9220	7782
Total Future Enrollment	12965	9244	7813
State Rated Capacity	15769	9763	8829
Percent Capacity	82%	95%	88%

Section 10-192.01 of the Prince George’s County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$9,741 per dwelling if a building is located between I-95/I-495 and the District of Columbia; \$9,741 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; or \$16,698 per dwelling for all other buildings. This project is outside of I-95/I-495; thus, the surcharge fee is \$16,698. This fee is to be paid to DPIE at time of issuance of each building permit. The proposed commercial property is exempt from a review for schools because it is a nonresidential use.

9. **Public Facilities**—In accordance with Section 24-122.01, water and sewerage, and police facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated April 7, 2020 (Thompson to Sievers), provided in the backup of this technical staff report and incorporated by reference herein. Adequate fire and rescue facilities are found for the residential development. However, fire and rescue response times exceed the national standard for the nonresidential development proposed, which was evaluated, as follows:

The subject property is served by Ritchie Fire/EMS Company 837, located at 1415 Ritchie Marlboro Road, in Capitol Heights. A 5-minute total response time is recognized as the national standard for fire/EMS response times. The 5-minute total response time arises

from the 2016 Edition of the National Fire Protection Association (NFPA) 1710 Standards for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments. This standard is being applied to the review of nonresidential subdivision applications.

According to NFPA 1710, Chapter 3 Definitions, the total response time and travel time are defined, as follows:

**3.3.53.6 Total Response Time. The time interval from the receipt of the alarm at the primary PSAP (Public Safety Answering Point) to when the first emergency response unit is initiating action or intervening to control the incident.**

**3.3.53.7 Travel Time. The time interval that begins when a unit is in route to the emergency incident and ends when the unit arrives at the scene.**

According to NFPA 1710, Chapter 4 Organization:

**4.1.2.1 The fire department shall establish the following objectives:**

- (1) Alarm handling time to be completed in accordance with 4.1.2.3. (4.1.2.3.1 The fire department shall establish a performance objective of having an alarm answering time of not more than 15 seconds for at least 95 percent of the alarms received and not more than 40 seconds for at least 99 percent of the alarms received, as specified by NFPA 1221).**
- (2) 80 seconds turnout time for fire and special operations response and 60 seconds turnout time for EMS response.**
- (3) 240 seconds or less travel time for the arrival of the first arriving engine company at a fire suppression incident.**

Prince George's County Fire/EMS Department representative, James V. Reilly, stated in writing (via email) that, as of March 31, 2020, the proposed project fails the 4-minute travel test from the closest fire/EMS station when applying the national standard and associated total response time of under 5 minutes from the closest fire/EMS station, Ritchie Fire/EMS Company 837. It is recommended that, prior to construction, the applicant shall contact the fire/EMS department to request a pre-incident emergency plan for the facility, install and maintain automated external defibrillators, in accordance with COMAR, and install and maintain hemorrhage kits next to fire extinguishers. In accordance with Section 24122.01(e)(1)(C), the department provided a statement that adequate equipment exists.

- 10. Use Conversion**—This PPS was analyzed based on the proposal for a mix of uses consisting of 292 residential attached and detached dwelling units and 12,500 square feet of gross floor area in the L-A-C and R-M Zones. The analysis includes access, mandatory dedication, public facilities, lot depth, and density specifically related to the land use and layout proposed with this application. If a substantial mix of uses on the subject property is

proposed that affects Subtitle 24 adequacy findings, that revision of the mix of uses would require approval of a new PPS, prior to approval of any building permits.

11. **Public Utility Easement (PUE)**—Section 24-122(a) 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.”

The standard requirement for public utility easements (PUEs) is 10 feet wide along both sides of all public ROWs. The subject site fronts on the public ROWs of Ritchie Marlboro Road and Westphalia Road and proposes new public ROWs within the site. The subject application also proposes a network of private streets as part of the internal street network. Section 24-128(b)(12) requires that 10-foot-wide PUEs be provided along one side of all private streets. The required PUEs are delineated on the PPS.

12. **Historic**—The subject property contains one Prince George’s County historic site, the Talburtt Tobacco Barn (78-009). The Talburtt Tobacco Barn and its 0.95535-acre environmental setting was designated a County historic site by the Historic Preservation Commission (HPC) on October 16, 2018.

The HPC reviewed the subject application at its April 21, 2020 meeting and voted 6-0-1 (the Vice-Chair voted “present”) to forward the following findings and conclusions, along with recommended conditions, to the Planning Board for its review:

## **FINDINGS**

### **Historic Preservation**

- a. The ownership of the subject property can be traced back to the original land grant, known as Alexandria, made to Alexander Magruder in 1670. A portion of the Alexandria patent was acquired by Jesse Talburtt in the early nineteenth century. The Talburtt family may have been residing on the property as tenants prior to their acquisition. Members of the Talburtt family retained possession of the subject property until 1925, when 319 acres were sold to Arcenious W. Bean. The family graveyard (not included in the subject application, but adjacent to it to the south), was reserved from the transaction, along with the right of ingress and egress, to and from the same. The subject property is in the northwestern part of the Alexandria land patent. The Talburtt residence appears to have been located in the southwestern portion of the 319-acre tract, which was located on the south side of Westphalia Road. Aerial photographs depict the land as primarily agricultural up to the present. The Westphalia Schoolhouse (PG:78-007) was located in the southeastern corner of the subject property, at the northwest intersection of Ritchie Marlboro and Westphalia Roads. The schoolhouse was built about 1874 and was used as a school until the 1930s. The building was converted to a tenant residence in 1936, greatly altering its original form before its demolition between 2000 and 2005.

- b. The HPC previously reviewed the CDP for the subject property on May 15, 2018. At that time, the Talburtt Tobacco Barn was listed as an historic resource in the Inventory of Historic Resources. At its October 16, 2018 meeting, the HPC designated the Talburtt Tobacco Barn (78-009) and its 0.95535-acre environmental setting a Prince George's County Historic Site.
- c. The Talburtt Tobacco Barn Historic Site (78-009) is shown on the PPS on proposed Parcel 1, containing 36,429 square feet or 0.84 acre. Parcel 1 does not correspond to the environmental setting of the Talburtt Tobacco Barn. Therefore, if the PPS is approved with the current layout, the applicant will have to apply for a change to the Environmental Setting to be approved by the HPC.

### **Archeology**

- a. A Phase I archeology survey was conducted on the subject property in 2008. The survey involved archival and background research, the systematic and intensive pedestrian surface survey or excavation of shovel test pits, and an inventory of all structures within the subject property. A total of 770 shovel test pits were excavated across the 65-acre property and 65 locations were investigated by surface collection.

The Phase I archeological survey of the subject property resulted in the identification of two archeological sites, 18PR932 and 18PR933, along with several historic and prehistoric isolated finds. Site 18PR932 represents the remains of the easternmost Talburtt tobacco barn, which burned in 1985, and was demolished sometime between 1985 and 1993. That barn was originally recorded as part of PG:78-009, along with the barn still standing. Site 19PR933 represents the remains of the Westphalia Schoolhouse (PG:78-007), that was later converted to a tenant house. No intact cultural deposits were noted at either site.

Therefore, no further work is recommended on sites 18PR932 and 18PR933, due to their lack of research potential.

- b. A draft Phase I archeological report was submitted to the Prince George's County Planning Department in September 2008. The staff review letter was sent to the applicant in December 2008 that included corrections to be made to the final reports. The final archeological reports have not been submitted to the Planning Department. The artifacts recovered from the investigations also have not been curated at the Maryland Archaeological Conservation (MAAC) Lab in Calvert County, Maryland.

### **CONCLUSIONS**

#### **Historic Preservation**

- a. The subject property contains the Talburtt Tobacco Barn Historic Site (PG:78-009), located in the southwest corner. The barn will be incorporated into the community on a site where it will be highly visible. At the time of SDP for architecture, the applicant should submit a plan for the preservation and long-term maintenance of the barn.

- b. The parcel on which the Talburtt Tobacco Barn Historic Site (PG:78-009) is located on the plan does not correspond to its environmental setting. If the PPS is approved as submitted, the applicant should submit a Change in environmental setting application to the HPC for its review and approval with the SDP.
- c. The applicant submitted proposed revisions to staff's conditions that would allow for several options regarding the disposition of the historic barn. One condition would allow for the dismantling of the barn and donating the materials for reuse in other historic structures.

### Archeology

- a. Archeological site 18PR932 represents the remains of the easternmost Talburtt Tobacco Barn, recorded as part of PG:78-009. The site consists of the remains of a foundation and a light concentration of twentieth century artifacts. No intact subsurface deposits or features were identified in the site area. As such, this site has little potential to yield significant information on the history of Prince George's County and no further work is recommended on site 18PR932.

Archeological site 18PR933 is the location of the Westphalia School House at the northwest intersection of Westphalia and Ritchie Marlboro roads, constructed circa 1876 and demolished between 2000 and 2005. While many artifacts were recovered in the site area, most consist of structural debris associated with demolition of the schoolhouse or are twentieth century domestic artifacts, likely associated with the use of the school as a tenant residence. No intact subsurface deposits or features were identified within the site. Therefore, site 18PR933 has little potential to yield significant information on the history of Prince George's County. No further work is recommended on site 18PR933.

- b. The final Phase I archeology report should be submitted to Historic Preservation staff and the artifacts recovered from the Phase I archeological investigations should be submitted to the MAAC Lab, prior to issuance of a grading permit. The applicant's representatives noted that they had identified and contacted the consultant that was curating the artifacts and would work with them to have them delivered to the MAAC Lab in Calvert County and to produce the final Phase I archeology reports.

12. **Environmental**—The Environmental Planning Section previously reviewed the following applications and associated plans for the subject site applicable to this case:

Development Review Case	Associated Tree Conservation Plan or Natural Resource Inventory	Authority	Status	Action Date	Resolution Number
NA	NRI-152-2017	Staff	Approved	09/26/2017	N/A
CDP-1701	TCP1-002-2018	District Council	Approved	10/15/2018	N/A
4-17034	TCP1-002-2018-01	Planning Board	Pending	Pending	Pending

### **Grandfathering**

This project is not grandfathered with respect to the environmental regulations contained in Subtitles 24 and 27 that came into effect on September 1, 2010 because the application is for a new PPS. This project is subject to the WCO and the Environmental Technical Manual (ETM).

### **Conformance with CDP-1701 Conditions**

The following text addresses previously approved environmental conditions related to the subject application. The text in **BOLD** is the actual text from the previous cases or plans. The plain text provides the comments on the plan's conformance with the conditions.

2. **Prior to acceptance of the preliminary plan of a subdivision, a revised statement of justification for the necessary primary management area impacts and specimen tree variance shall be included in the application package.**

A revised statement of justification (SOJ) for the necessary primary management area (PMA) impacts and specimen tree variance were included in the application package and are discussed in this report.

- 3(f). **Prior to approval of the preliminary plan of subdivision (PPS): The applicant shall provide a geotechnical report to confirm the elevation of the Marlboro clay and determine the slope stability factor.**

A geotechnical report to confirm elevation of the Marlboro clay and determine the slope stability factor line was submitted with this application and is discussed below in the Marlboro Clays section of this report.

### **MASTER PLAN CONFORMANCE**

#### **Plan Prince George's 2035 Approved General Plan**

The site is located within Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035, and within the Established Communities area of the General Plan Growth Policy.

#### **Conformance with the Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan (May 2017)**

The 2017 *Countywide Green Infrastructure Plan* (Green Infrastructure Plan) was approved with the adoption of the *Approved Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017) on March 7, 2017. According to the approved Green Infrastructure Plan, two regulated areas are mapped on-site. Both are associated with tributaries of Turkey Branch that flow to the north off-site. These areas are also associated with other regulated environmental features, including non-tidal wetlands and their associated buffers.

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

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

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

The site contains two regulated areas that are located within the Turkey Branch Tier II Catchment within the Western Branch of the Patuxent River, which is both a stronghold and a Tier II watershed. Parts of these regulated areas have been previously impacted as a direct result of the prior use of farming on-site.



However, there is potential to preserve and improve these regulated areas on-site and to focus development away from them. The applicant proffers to keep the development away from most of the undeveloped areas. Impacts will be for the creation of two submerged gravel wetlands to help with improving water quality leaving the site along with associated outfalls.

No Sensitive Species Project Review Areas or Special Conservation Areas are located on-site, according to a letter dated July 5, 2017 from the Department of Natural Resources, Wildlife Heritage Section; however, according to PGAtlas there is an area of mapped habitat located immediately off-site to the north, where the site discharges. The development's SWM and erosion and sediment control requirements will ensure water quality downstream.

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

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

The evaluation areas that connect the regulated areas on-site are proposed to be retained and improved through a combination of woodland preservation, slope stabilization, and reforestation.

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

- 3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.**
  - a. Provide wildlife and water-based fauna with safe passage under or across roads, sidewalks, and trails as appropriate. Consider the use of arched or bottomless culverts or bridges when existing structures are replaced, or new roads are constructed.**
  - b. Locate trail systems outside the regulated environmental features and their buffers to the fullest extent possible. Where**

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

The site is currently developed as a farm with no public or private roads on-site. The undeveloped portion of the subject site currently in agricultural use will be significantly impacted by transportation improvements; however, the majority of the forested areas will remain in-tact and undisturbed. Any future trail system proposed through the regulated areas of the site should be evaluated during the site planning process at time of SDP. Trails through sensitive areas should be generally designed to minimize impacts.

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

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

Conservation easements are required for the subject application to protect areas identified within the PMA that are not otherwise approved for impact.

With regard to the required woodland conservation easement, approximately 8.08 acres of woodland conservation and 1.37 acres of afforestation/reforestation, and 7.81 acres of off-site woodland conservation credits are proposed. The final on-site areas counted as woodland conservation credits will be required to be placed in a woodland conservation easement if it meets the criteria for credit.

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

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

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

The proposed SWM Concept Plan (43456-2017-01) currently under review by DPIE proposes the implementation of a SWM system across the site that utilizes a combination of submerged gravel wetlands, micro-bioretenion areas, and swales to improve the water quality of runoff that will discharge off-site. DPIE will determine whether or not this proposed SWM concept plan is in conformance with the current code.

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

***General Strategies for Increasing Forest and Tree Canopy Coverage***

- 7.1 Continue to maximize on-site woodland conservation and limit the use of off-site banking and the use of fee-in-lieu.**
- 7.2 Protect, restore and require the use of native plants. Prioritize the use of species with higher ecological values and plant species that are adaptable to climate change.**
- 7.4 Ensure that trees that are preserved or planted are provided appropriate soils and adequate canopy and root space to continue growth and reach maturity. Where appropriate, ensure that soil treatments and/ or amendments are used.**

Planting of native species is encouraged on-site.

***Forest Canopy Strategies***

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

Green space is encouraged within the proposed development, particularly within and around existing regulated areas on-site for expansion, restoration, and preservation of these regulated areas. Reforestation is shown along areas proposed to be regraded to stabilize slopes along the PMA.

**Approved Westphalia Sector Plan and Sectional Map Amendment (2007)**

The Westphalia Sector Plan and SMA includes applicable goals, policies, and strategies. The following policies are applicable to the current project with regard to natural resources preservation, protection, and restoration. The text in **BOLD** is the text from the SMA and the plain text provides comments on plan conformance.

**Environmental Infrastructure Section Recommendations:**

**Policy 1: Green Infrastructure: Protect, preserve, and enhance the identified green infrastructure network within the Westphalia sector planning area.**

The northern portion of the property is mapped as being part of the regulated and evaluation areas within the Westphalia sector planning areas Green Infrastructure network. It is not mapped as being in any of the primary or secondary corridors mapped within this plan. Priority for conservation and restoration of habitat, along the northern portion of the property edge, is a priority. The green elements of the site are proposed to be protected and enhanced through a combination of woodland preservation, reforestation/afforestation, and slope stabilization.

**Policy 2: Water Quality and Quantity: Restore and enhance water quality of receiving streams that have been degraded and preserve water quality and quantity in areas not degraded.**

Implementing conservation landscaping techniques that reduce water consumption and the need for fertilizers or chemical applications is encouraged. The capture and reuse of stormwater for grey water should be considered with the site's final design to the fullest extent possible.

The proposed SWM Concept Plan (43456-2017-01) will use a combination of 2 micro-bioretenion facilities, 17 micro-bioretenion facilities, and 2 swales to improve the water quality of runoff that will discharge off-site.

**Policy 3: Energy Consumption: Reduce overall energy consumption and implement environmentally-sensitive building techniques.**

The use of green building techniques and energy conservation techniques should be used, as appropriate. The use of alternative energy sources such as solar, wind, and hydrogen power are encouraged.

## **ENVIRONMENTAL REVEIW**

### **Existing Conditions/Natural Resources Inventory**

The site has an approved Natural Resources Inventory Plan (NRI-152-2017), which shows the existing conditions of the property. A total of 14 specimen trees have been identified on-site, or within the immediate vicinity, of the site's boundary.

The site contains regulated environmental features, including streams/wetlands and their buffers, and 100-year floodplain which comprise the PMA. The forest stand delineation indicates that there are eight forest stands; four of which have a high rating for preservation. The site has a total of 22.20 acres of gross tract woodland, of which 2.26 acres are within the existing 100-year floodplain, as shown on the NRI. Areas of steep slopes are scattered across the site.

The site is associated with tributaries of the Turkey Branch, which is in both a stronghold and a Tier II watershed. The site contains an historic site and associated environmental setting known as Talburtt Tobacco Barn (78-009). According to the approved NRI, there are no trees or shrubs that have been identified on-site within this historic environmental setting. Much of the remaining property is open fields.

No revisions are required for conformance to the NRI.

### **Woodland Conservation**

This property is subject to the provisions of the WCO because the property is greater than 40,000 square feet and contains more than 10,000 square feet of existing woodland. An -01 revision has been submitted to existing Type 1 Tree Conservation Plan (TCP1-016-2019) for review that covers the area of this PPS.

According to the worksheet shown on the TCP1, as submitted, the site is 63.66 acres split-zoned between the R-M (44.21 acres) and L-A-C (19.45 acres) Zones. A total of 20.41 acres of existing woodlands are on the net tract and 2.27 acres of woodlands are within the existing floodplain. The site has a woodland conservation threshold of 11.31 acres, or 18.42 percent of the net tract, as tabulated. The plan shows 0.78 acre of off-site clearing. The TCP1 shows a total woodland conservation requirement of 17.14 acres based on the proposed clearing shown. The TCP1 shows this requirement will be met by providing 8.08 acres of on-site woodland preservation, 1.37 acres of on-site afforestation/ reforestation, and 7.81 acres of off-site woodland conservation credits. This revision to the TCP1 is consistent with the TCP1 approved with the CDP.

The TCP1 requires additional technical revisions that are included in the recommended conditions below.

### **Specimen Trees**

Section 25-122(b)(1)(G) requires that "Specimen trees, champion trees, and trees that are part of an historic site or are associated with an 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 Environmental Technical Manual (ETM)."

The site contains 13 specimen trees on-site and one specimen tree off-site, with the ratings of good (Specimen Trees 1-3, 7, and 14), fair (Specimen Trees 4-6, 8-10, 12, and 13), and poor (Specimen Tree 11). The current design proposes to remove Specimen Tree 14 for development of dwellings and infrastructure.

### **Review of Subtitle 25 Variance Request**

A Subtitle 25 variance application, an SOJ in support of a variance, and a tree removal plan were received for review on March 6, 2020.

Section 25-119(d)(1) of the WCO contains six required findings to be made before a variance can be granted. The SOJ submitted seeks to address the required findings for the specimen tree. Details specific to individual trees has also been provided in the following chart.

### SPECIMEN TREE SCHEDULE SUMMARY

ST #	COMMON NAME	DBH (in inches)	CONDITION	COMMENTS	DISPOSITION
1	Southern red oak	33	good	off-site	to be saved
2	American beech	41	good		to be saved
3	Tulip poplar	32	good		to be saved
4	Tulip poplar	32	fair		to be saved
5	Tulip poplar	32	fair		to be saved
6	Tulip poplar	33	fair		to be saved
7	Tulip poplar	32	good		to be saved
8	Tulip poplar	37	fair		to be saved
9	Tulip poplar	33	fair		to be saved
10	Tulip poplar	30	fair		to be saved
11	Tulip poplar	47	fair	heart rot	to be saved
12	Tulip poplar	21	poor	triplet	to be saved
13	Tulip poplar	39	fair	twin	to be saved
14	Tulip poplar	34	fair		to be removed

A variance to Section 25-122(b)(1)(G) is requested for the clearing of one specimen tree on-site. There are 14 specimen trees on the property. The plan retains 13 and proposes the removal of a single tree: Specimen Tree 14. The tree is found in the southeast portion of the property. The health of the tree will be impacted by the demolition of the existing buildings located within the critical root zone of the tree. The tree is also located adjacent to a proposed roadway that has been sited based on the existing topography of the site. As such, grading necessary to construct the road will also impact the tree.

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.**

Specimen Tree 14 is in the most developable portion of the site and is surrounded by existing structures that make it infeasible to save at time of demolition.

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

In order to prepare this site for development, the existing residential structures must be razed. Preventing the razing of these buildings to save this tree would further limit the area of developable land area and will deprive the applicant of the opportunity to create a functional development.

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

As previously discussed in (A) and (B) above, not granting this variance will prevent the project from being developed in a functional and efficient manner. The variance would not result in a privilege to the applicant; it would allow for development to proceed with similar rights afforded to others with similar properties and land uses.

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

The nature of the variance request is not in response to actions taken or resulting 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**

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

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

The site is governed by the current SWM regulations. The proposed loss of one specimen trees will be offset by the establishment of water quality and control devices approved as part of a required SWM plan that will direct and treat stormwater directly into the Turkey Branch during storm events.

After evaluating the applicant's request, staff finds the required findings of Section 25-119(d) have been adequately addressed for the removal of one specimen tree (Specimen Tree 14).

**Preservation of Regulated Environmental Features/Primary Management Area**

The site contains regulated environmental features, including streams/wetlands and their buffers, and 100-year floodplain, which comprise the PMA, and their buffers.

Impacts to the regulated environmental features should be limited to those that are necessary for development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property, or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for SWM facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing, or at the point of least impact to the regulated environmental features. SWM outfalls may also be considered necessary impacts if the site has been designed to place the outfalls at points of least impact.

The types of impacts that can be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for development of a property should be the fewest necessary and sufficient to reasonably develop the site, in conformance with County Code. Impacts to regulated environmental features must first be avoided and then minimized. The SOJ must address how each on-site impact has been avoided and/or minimized.

#### **Statement of Justification for Regulated Environmental Features Impacts**

A revised SOJ dated April 9, 2020 and associated exhibits were submitted on April 9, 2020 for five impacts to regulated environmental features on-site, totaling 28,972 square feet (0.67 acre).

According to the ETM, a mitigation plan is required if the cumulative proposed impacts for the entire site to wetlands and wetland buffers are shown to exceed a 0.5-acre threshold, or if 200 linear feet or more of stream bed are impacted. Only on-site impacts are evaluated for this threshold. There are no impacts to wetlands or wetland buffers on-site, and only 20 linear feet of stream bed impacts proposed on-site. Therefore, a wetland mitigation package is not required for this site to be reviewed by the Planning Board.

Based on the SOJ, the applicant is requesting the following impacts described below:

##### **Impact A for Construction of Sanitary Sewer Connection**

Impact A is proposed for the disturbance of a total of 12,655 square feet (0.29 acre), which is comprised of 20 linear feet of stream bed impact, and 5,615 square feet of stream buffer impacts, for a passive flow sewer line that will provide sewer access across the site, between proposed Road A and Road C, to an existing sewer line located on Ritchie Marlboro Road. Staff supports this impact, as it does not appear that alternative options exist for passive elimination of sewage waste off-site.

##### **Impact B for Construction of Three Stormwater Outfall Structures**

Impact B is proposed for the disturbance of a total of 10,092 square feet (0.23 acre), which is entirely comprised of 10,092 square feet (0.23 acre) of stream buffer impacts only for construction of three stormwater outfall structures required to safely convey SWM off-site. Staff supports these impacts, as they are necessary to safely convey stormwater off-site.

##### **Impacts C and D for Grading Tie Out**

Impact C is proposed for disturbance of a total of 2,968 square feet (0.07 acre), while Impact D is proposed for a total of 1,168 square feet (0.03) acre. Both of these impacts are proposed on areas of existing steep slopes associated with unstable Marlboro clays, where retaining walls were initially proposed at the time of CDP-1701, to provide slope stability. Instead of providing costly engineered walls in these areas that will require long-term maintenance, the applicant wishes to propose bio-engineered solutions to these areas in the form of graded gentle slopes (2–5 percent slopes) that will be revegetated with canopy and understory native species. The stable vegetated slopes will help reduce erosion on-site within the Turkey Branch Tier II Catchment area. Staff supports these impacts.



### **Impact E for Construction of a Stormwater Outfall for Submerged Gravel Wetland 2**

Impact 4 is proposed for the disturbance of a total of 2,089 square feet (0.05 acre), which is comprised of 787 square feet of stream buffer impacts, and 1,302 square feet of steep slopes for the outfall structure associated with proposed Submerged Gravel Wetland 2 to safely discharge water off-site. Staff supports this impact, as it is necessary for installation of the SWM system on-site.

After evaluating the applicant's SOJ for proposed impacts to regulated environmental features, as well as the impacts shown on the plans, as submitted, that were not included in the SOJ, staff supports proposed Impacts A, B, C, D, and E. The regulated environmental features on the subject property have been preserved to the fullest extent possible, based on the limits of disturbance shown on the plans for proposed Impacts A, B, C, D, and E.

### **Erosion and Sediment Control**

This site is within a Tier II catchment area. Tier II waters are high-quality waters within the State of Maryland, as designated by the Maryland Department of Environment that are afforded special protection under Maryland's Anti-degradation policy. According to correspondence with the Prince George's Soil Conservation District (PGSCD) with the applicant dated April 8, 2020, most of the site falls within the hydrological soil groups C and D, which require an expanded buffer width based on the existing percentage of slope between 125–150 linear feet from all intermittent and perennial streams. The proposed TCP1 reflects this buffer, which is regulated by PGSCD. The PGSCD may require redundant erosion and sediment control measures for this site as part of their review and approval process. No further information is required at this time regarding erosion and sediment control.

### **Soils**

The predominant soils found to occur on-site, according to the U.S. Department of Agriculture Natural Resource Conservation Service Web Soil Survey, include Adelphi-Holmdel complex (2–5 percent slopes), Collington-Wist complex (2–5 percent slopes), Croom-Marr complexes, Marr-Dodon complexes, Howell and Dodon Soils (15–25 percent slopes), Westphalia and Dodon Soils (25–40 percent slopes), Woodstown sandy loams, Westphalia and Dodon soils, and Widewater and Issue soils (frequently flooded).

According to available information, no unsafe soils containing Christiana complexes exist on-site; however, this property is located in an area with extensive amounts of mapped Marlboro clay, which 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 was required to be submitted for the subject property at time of this PPS, in order to evaluate the areas of the site that are unsuitable for development without mitigation.

According to DPIE, when existing or proposed steep slopes exceed 20 percent on unsafe soils, government agencies should insist on submitting a full geotechnical report that includes a global stability analysis with the proposed (mitigated) 1.5 safety factor line determined and shown on the report plan and on any supporting plans, submitted for County review and approval.

### **Marlboro Clays**

The TCP1 plan shows existing Marlboro clay outcrops running primarily along the base of the steep slopes, associated with the existing streams on-site, along the northern portion of the property. A global slope stability geotechnical report dated July 19, 2019 (revised February 5, 2020) from ECS Mid-Atlantic, LLC, was initially submitted with this PPS application. Prior to acceptance, it was referred to DPIE for comment. On February 28, 2020, DPIE replied that after they reviewed the slope stability analyses report, it noted that the Boring Location Plan within the report did not show the 1.5 safety factor line across multiple cross sections; however, they found the analyses and factors of safety to be acceptable from a geotechnical perspective, especially since the retaining walls were removed from the plan. However, this was based on an earlier SWM concept layout and also on the design of CDP-1701.

DPIE took note of this, and stated that for the coming SWM concept revision, they were going to ask ECS Mid-Atlantic, LLC,/Rodgers Inc. to continue the green (mitigated) 1.5 safety factor line across cross section PH-PH', as shown in the report. Currently, segments of this line are shown across cross sections D-D' and PG-PG'. These two line segments should be connected across PH-PH'. DPIE noted that this required adjustment would not be expected to impact the proposed development, as shown on this PPS or its layout.

Subsequent to the SDRC meeting, the applicant submitted a revised report from ECS Mid-Atlantic, LLC, dated July 19, 2019 (revised April 8, 2020), as well as a revised SWM concept plan, along with a receipt that it is currently being reviewed by DPIE. This layout matches the PPS. The revised report will be referred to DPIE for review and comment. A determination of the factor of safety must be made, prior to signature approval of the PPS and acceptance of the SDP and TCP2.

**13. Urban Design**—Conformance with the requirements of the Zoning Ordinance is evaluated, as follows:

The development proposal of this site will be subject to SDP review for conformance with previously approved CDP-1701, which governs this property and includes some of the design standards and guidelines of the sector plan, specifically regarding density, lot size, width, and setbacks. In addition, this application is subject to regulations of the Zoning Ordinance, including but not limited to, the following:

- a. The requirements of the Zoning Ordinance in the R-M and L-A-C Zones.
- b. Parts 11 and 12 of the Zoning Ordinance, regarding parking and signage, respectively.

### **Conformance with the 2010 Prince George's County Landscape Manual**

The proposed development is subject to the provisions of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Conformance with the following requirements of the Landscape Manual: Section 4.1, Residential Requirements; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets, will be reviewed at the time of SDP.

### **Conformance with the Tree Canopy Coverage Ordinance**

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require a grading permit. Properties that are zoned R-M are required to provide a minimum of 15 percent of the gross tract area in TCC, and properties that are zoned L-A-C are required to provide a minimum of 10 percent of the gross tract area in TCC. Conformance with the requirements of Tree Canopy Coverage Ordinance will be evaluated at time of SDP.

### **Conformance with Previous Approvals**

CDP-1701 was approved by the Planning Board (PGCPB Resolution No. 18-71), and affirmed by District Council with seven conditions, of which the following conditions are relevant to the review of this application, as follows:

#### **3. Prior to approval of the preliminary plan of subdivision (PPS):**

- a. The Talburtt Tobacco Barn (PG:78-009) shall be evaluated by the Historic Preservation Commission to determine if the historic resources meet the criteria to be designated as Prince George's County historic sites.**
- b. If the Talburtt Tobacco Barn (PG:78-009) is designated as a Prince George's County historic site, the establishment of its associated environmental setting may necessitate the adjustment of lot lines, to ensure its preservation.**
- c. The feasibility of the proposed commercial development shall be further evaluated based on the Historic Preservation Commission's evaluation and designation of the environmental setting for the Talburtt Tobacco Barn at the time of Specific Design Plan.**

The subject application has been reviewed by the HPC and appropriate recommendations have been incorporated into this report.

- d. The applicant shall dedicate all rights-of-way for A-39 and C-626, as identified by the Prince George's County Planning Department.**
- e. A contribution to the Public Facilities Financing and Implementation Program (PFFIP) will be determined, based on the density approved for the PPS.**

Conditions 3.d. and e. above were evaluated in the Transportation finding of this report and appropriate conditions are recommended for implementation of these items.

- f. The applicant shall provide a geotechnical report to confirm the elevation of the Marlboro clay and determine the slope stability factor.**

Condition 3.f. above is evaluated in the Environmental finding above.

7. The residential dwelling units are subject to the development standards, as follows:

**Single-Family Detached (SFD) Units**

**STANDARDS\*\***

Minimum Net Lot area	6,000 square feet
Minimum Front Yard setback:	20 feet
Minimum Rear Yard setback:	20 feet*
Minimum Side Yard setback (one side / combined):	5 feet/10 feet
Minimum Lot Width at Street Line:	50 feet
Minimum Lot Width at Front BRL:	50 feet
Minimum Lot Width at Street (cul-de-sac):	40 feet
Maximum Height:	40 feet
Maximum Lot Coverage:	50 percent

**Single-Family Attached (SFA-Townhouse) Units**

**STANDARDS\*\***

Minimum Net Lot area	
16' Wide:	1,200 square feet
20' Wide:	1,400 square feet
22' Wide:	1,600 square feet
24' Wide:	1,800 square feet
Minimum Front Yard setback:	6 feet
Minimum Lot Width at Street Line:	16 feet***
Minimum Lot Width at Front BRL:	16 feet***
Minimum Distance Between Buildings:	15 feet
Minimum Gross Living Space:	1,250 square feet
Maximum Height:	45 feet

**Other Design Standards:**

A minimum of 60 percent of all townhouse units shall have a full front façade (excluding gables, bay windows, trim, and doors) of brick, stone, or stucco.

For all alley-loaded townhouses, a cantilevered deck, a minimum four feet in depth, shall be a standard feature.

Highly visible end units for dwelling units require additional design and finish treatments, that will be decided at the time of specific design plan approval.

Notes: \*A deck or patio can encroach into the rear yard by 10 feet.

\*\*Variation to the standards can be granted by the Prince George's County Planning Board and/or the District Council on a case-by-case basis, with the approval of a Specific Design Plan.

**\*\*\*The minimum width is 16 feet for interior units and 22 feet or larger for end units. At least 80 percent of the single-family attached lots shall be a combination of 20', 22' and 24' in width to achieve the highest architectural quality and a variety of unit sizes. The Planning Board and/or the District Council may allow variations to these standards in accordance with Zoning Ordinance §27-480 during review of the Specific Design Plans.**

The PPS shows that all required net lot area design standards are being met with this application. However, no information regarding the percentage of each type of townhouse units accounting for the total number of the proposed townhouse units has been provided. A table showing the percentage breakdowns of each townhouse unit type should be provided, prior to signature approval. The remaining design standards will be evaluated for conformance at the time of SDP.

The approved CDP designated three possible pocket park/tot lot areas, and a community amenity area, consistent with the approved basic plan. Recreational facilities are not specifically identified on this PPS; however, the plan shows several parcels to be dedicated to the homeowners association, and some of these parcels may be eligible for recreational facilities. The applicant should clearly label the location of the open spaces to be used as pocket park/tot lot areas. The quantity, quality, and siting of the recreational facilities will be fully evaluated at the time of SDP.

#### **Variance Request**

The proposed lot layout generally conforms with the Zoning Ordinance requirements applicable to the R-M and L-A-C Zones. However, the proposed PPS is not consistent with the requirements of Section 27-480(d), regarding the maximum number of units in a building group. Specifically, the applicable provisions of Section 27-480(d) are as follows:

- (d) **There shall be no more than six (6) townhouses per building group in any Comprehensive Design Zone (with the exception of the V-L and V-M Zones) for which an application for a Specific Design Plan is filed after December 30, 1996, 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 SDP, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width. The restrictions on units per building group and percentages of building groups shall not apply to townhouses in the L-A-C Zone, if any portion of the L-A-C tract lies within one-half (1/2) mile of an existing or planned Washington Metropolitan Area Transit Authority Metrorail station. In no event shall there be more than nine (9) dwelling units in a building group. Garage parking within all building groups shall be provided in rear-loaded garages except where the rears of the units are located along open space areas along the perimeter of the development area or areas of steep topography.**

The proposed subdivision includes 184 single-family attached units, in 29 groupings. Of the 29 groups, 16 contain 6 or fewer individual units, 5 contain up to 7 units, 5 include 8 units, and 3 include 10 units. Forty-five percent of the groupings exceed the 6 unit maximum, and 3 groupings exceed the 9 unit maximum.

The applicant requests a variance to allow 45 percent of the groupings to exceed 6 units and to allow 3 groupings of more than 9 units (not to exceed 10 units).

In accordance with Section 27-230(a) of the Zoning Ordinance, in order to approve a variance, the Planning Board must make the following findings:

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

The property is encumbered by severe topography and streams, with approximately 80 feet of elevation change in a considerably rolling terrain. An isolated wetland exists near the property's center. The terrain and streams focus the higher density development in the southern half of the property. Zoning recognizes this terrain by placing the higher density/intensity zone in the southern portion of the property as well. The split-zoning of the property does not allow the density to be spread out across the property, but concentrates the higher density in the L-A-C-zoned portion of the property. Exceptional topographic conditions exist here, and the split-zoning of the property presents an extraordinary development condition.

**(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**

The applicant requests variances to allow certain groups of townhouses to include more than six units, and certain groups to exceed eight, but no groups to exceed ten units. Because townhouses are a permitted use in the L-A-C Zone, the requested variances are considered area variances, rather than use variances. The courts have held that area variances are subject to the practical difficulty test, while use variances should be held to the higher exceptional or undue hardship test.

In Montgomery County v. Rotwein, 169 Md. App. 716, the Court applied a three-pronged test to determine practical difficulty:

- 1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.**
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant, as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the**

**property involved and be more consistent with justice to other property owners.**

- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed, and public safety and welfare secured.**

In 2009, the State revised its *Stormwater Design Manual*, with special attention paid to Chapter 5: Environmental Site Design. Strategies for site layout promulgated in Chapter 5 include:

- a. Plan the building footprint and layout to protect conservation areas.**
- b. Evaluate opportunities to enhance/expand forested, wetland, and stream buffers.**
- c. Grade the site so that runoff will flow from impervious areas directly to pervious areas or other natural conveyance systems.**
- d. Maintain natural flow paths between the site and upstream and downstream systems.**
- e. Maintain sheet-flow and natural overland flow processes wherever feasible.**
- f. Provide stable conveyance of runoff off-site (page 5.9).**

The proposed development has been designed with these guidelines in mind. Grouping townhouses together, rather than dividing them up over more land, allows a building footprint that helps protect conservation areas, gets runoff to pervious surfaces faster, and provides more open, contiguous land to accommodate sheet-flow over unencumbered land.

The imposition of the current regulations regarding the number of units in a group is unnecessarily burdensome. A development that met these regulations might be in conflict with the State's guidelines, and in fact, the design is consistent with these newer guidelines and with newer regulations in effect at other locations in the County.

In 2018, the County Council, in CB-87-2018, amended the requirements of Section 27-548(h) for the M-X-T Zone. According to the Committee Report, the bill was "intended to modernize the outdated standards for townhouses..." As proposed, the development would not need the variance if the property were in the M-X-T Zone. The property is not in the M-X-T Zone, but it is not unusual for new developments to include townhouses designed as they are in this application. Clearly, approval of the variances would "give substantial relief to the owner of the property involved and be more consistent with justice to other property owners" and the relief will ensure that the spirit of the ordinance will be observed, and public

safety and welfare secured. The applicant claims that if the townhouse regulations were outdated for one zone, those same regulations are outdated in all zones.

Substantial justice is achieved by allowing the applicant to conform with the State's Environmental Site Design guidelines and by granting the same rights afforded other townhouse developers in the County.

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

The sector plan recommended a neighborhood center be located in the northwest quadrant of the Ritchie Marlboro and Westphalia Roads. To achieve that land use goal, the SMA rezoned the property to the L-A-C and R-M Zones from the R-A Zone. Sector Plan Development Concept 4 (page 106) serves as the basic plan for the property. The sector plan includes the intersection of Westphalia Road and Ritchie Marlboro Road intersection as a gateway for the sector plan area. At the time of sector plan approval, the property was in the Developing Tier.

The SMA outlines the land use types and quantities for the rezoning from R-A to R-M and L-A-C (page 91).

**The R-M (Residential Medium) and L-A-C (Local Activity Center) comprehensive design zones implement the sector plan recommendation for low to moderate-density residential, neighborhood-oriented commercial and institutional land uses on these three properties. Public Record Exhibit 58 contains an illustration for a comprehensively planned mix of civic, residential, commercial, and open space uses as the basic plan (as amended by CR-2-2007 (DR-2) below) for these comprehensive design zones per Section 27-478 of the Zoning Ordinance. The land use relationships illustrated in Exhibit 58 are represented in SMA Rezoning Development Concept 4 (see Appendix 1). The land use types and quantities approved for the Rock Creek Baptist Church, Washington, and Bean properties are defined by CR-2-2007 (DR-2), MSA Amendment 3 as follows:**

**Land Use Types: All uses allowed in the R-S and L-A-C Zones.**

**Land Use Quantities (to be determined at CDP, based on Exhibit 58):**

**R-M (3.6) Zone—Approximately 183.5 acres, capped at 4.0 DU/acre**

**Residential—712 units**

**Age-Restricted Community—160 units**

**Public/Quasi-Public Use—Church, school and recreation amenities**

**L-A-C (Neighborhood) Zone: Approximately 40 acres**

**Residential—Approximately 12 acres**

**Residential—320 units**



**Commercial/Retail (including live/work) —25,000 square feet  
GFA**

**Country Inn—40,000 square feet GFA**

**Comprehensive Design Plan Review Considerations:**

**MC-631 is located on the subject property and should connect  
directly to the portion of MC-631 located on the Woodside Village  
Property at a four-way intersection with Westphalia Road.**

The proposed development falls below these maximum densities and intensities. Clearly, the sector plan envisioned considerable density on this property.

Policies adopted in Plan 2035, seven years subsequent to the adoption of the SMA, recommend commercial and institutional uses be concentrated in Regional and Local Centers, rather than in Established Communities and Future Water and Sewer Services Areas. Plan 2035 also provides a new vision for Prince George's County, eliminates the three-tier structure of the 2002 General Plan (except in certain cases), and creates new Growth Policy Areas in the County. These include:

- Regional Transit Districts
- Local Centers
- Employment Areas
- Established Communities
- Future Water and Sewer Service Areas
- Rural and Agricultural Areas

The property is in the Future Water and Sewer Growth Policy Area. Future Water and Sewer Growth Policy Areas are areas that are "within the Growth Boundary, but which have not been approved for a water and sewer category change (which would allow for denser development)..." (page 20). A category change from Water and Sewer 5 to Water and Sewer 4 has been approved by the County in early 2017, effectively moving the property into the Established Communities Policy area, and allowing for the development envisioned in the 2007 sector plan.

The new vision presented by Plan 2035 includes major development around transit stations and a concentration of new commercial development in Regional Transit Districts, Local Centers, and Employment Areas. In fact, while not meant to be applied as a specific test for new development, Table 17 of Plan 2035 recommends 90 percent of all future employment uses occur within these three areas (page 110).

The proposal, with its extended groupings of townhouses, achieves many of the County's policies for the Westphalia Sector, as envisioned and evolved in the sector plan through Plan 2035. Therefore, the variance will not impair the integrity of the sector plan and Plan 2035.

In conclusion, staff believes that the proposed variance request meets all of the required findings for approval and recommends approval of the variance to the requirements of Section 27-480(d) to allow the proposed townhouse groupings.

### **Other Urban Design Issues**

Insufficient parking for visitors in the townhouse development has always been an issue in the County. The PPS plan shows additional parking for the townhouse sections to the east and north. However, the applicant should consider providing additional parking for visitors for the townhouse section in the middle of Block F, across the street from the future commercial parcel. This issue will be further evaluated at the time of SDP that may result in reduction of townhouse units, in order to provide enough parking for visitors for the section.

CDP-1701 approved total dwelling units in the range of 235 to 330 with the maximum 160 dwelling units in the L-A-C Zone. The total units of 292 proposed in this PPS, and the maximum dwelling units in the L-A-C Zone, are within the limits of the CDP.

- 14. Noise**—A Phase I noise analysis dated May 6, 2019 was prepared by Hush Acoustics, LLC and was submitted by the applicant with this PPS. The analysis measured road noise from Ritchie Marlboro Road and Westphalia Road. The analysis addressed outdoor noise based on conceptual building locations and the noise measurement results indicate that the rear yards of Lots 286 through 296 and Lot 10 will be subject to noise levels above 65 dBA DNL (day-night average noise level), but will not exceed 65 dBA in any other outdoor activity area. To reduce the DNL to 65 dBA or lower in the shielded portions of the indicated rear yards, the study recommended two noise walls, one stretching the length of Lots 286 through 296 and another along Lot 10. These barriers can consist of noise walls made of a variety of materials, such as wood, metal, and concrete. According to the noise study, re-grading should not change the yard elevations by more than five feet, as this would change the predicted sound levels. With the noise fences at the recommended 6-foot height and elevation, the DNL will not exceed 63.8 dBA in any rear yard.

The subject site is located in the M-I-O Zone and subject to overflight noise. However, this site is not in an area affected by overflight noise, which exceeds 65 dBA. A Phase II noise analysis should be submitted with an SDP for the subject site, which accounts for grading and the placement of dwellings, in order to determine the final design of noise mitigation structures.

To ensure that the necessary interior noise levels are maintained, at time of building permit, all affected residential buildings should have acoustical certification that building shells have been designed to reduce interior noise levels to 45 dBA DNL or less.

### **RECOMMENDATION**

**APPROVAL**, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plans shall be revised, as follows:
  - a. Provide a table, which breaks down the percentage of each type of townhouse unit, according to width.
  - b. Label the pocket park/tot lot areas to be consistent with those approved on Comprehensive Design Plan CDP-1701.

- c. The Talburtt Tobacco Barn Historic Site (78-009) shall be correctly labeled on all plans.
  - d. Remove the Maryland-National Capital Park and Planning Commission approval block from all plan sheets.
  - e. Parcel U shall be designated as Outparcel 1 and be labeled to be conveyed to the abutting property owner, as is indicated in the parcel table on the coversheet.
2. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised to meet all the requirements of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance. Required revisions include, but are not limited to:
- a. Revise the net tract area in the Site Statistics table from 64.41 acres to 61.40 acres.
  - b. Revise the TCP1 worksheet. The existing woodlands within the floodplain cannot exceed the area of existing floodplain on-site.
  - c. Add the standard Subtitle 25 variance note under the Specimen Tree Table or woodland conservation worksheet, identifying with specificity the variance decision consistent with the decision of the Prince George's County Planning Board:
 

“NOTE: This plan is in accordance with the following variance(s) from the strict requirements of Subtitle 25 approved by the Planning Board on (ADD DATE) for the removal of the following specified specimen trees (Section 25-122(b)(1)(G): (Identify the specific trees to be removed).”
3. Prior to signature approval of the preliminary plan of subdivision, an approved stormwater management (SWM) concept plan shall be submitted. The SWM features shall be shown consistently on all plans.
4. In conformance with the 2009 *Approved Countywide Master Plan of Transportation*, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement, with written correspondence:
- a. Standard sidewalk along all internal roadways, excluding alleys.
  - b. Shared roadway markings, sharrows, along proposed Roads A, D, and E.
  - c. Continental style crosswalks crossing Road A at its intersection with Ritchie Marlboro Road, crossing Road B at its intersection with Westphalia Road, and crossing Road E at its intersection with Westphalia Road.
  - d. Standard crosswalks at all legs of the intersection of Roads A and C; crossing all legs of the intersection of Roads D and F; crossing the

southern leg of Road B at its intersection with Road A; at the southern leg of Road D at its intersection with Road A; and crossing the southern and eastern legs of the intersection of Roads D and E.

- e. Standard bicycle lanes along the subject site frontage of Ritchie Marlboro Road and Westphalia Road.
5. Prior to acceptance of a specific design plan for the subject property, the applicant and the applicant's heirs, successors, and/or assignees shall provide an updated roadway cross section for A-A, Private Road G, which includes standard sidewalks on both sides of the road.
6. Prior to approval of a specific design plan, the applicant shall:
- a. Submit a Change in Environmental Setting application to the Historic Preservation Commission for its review.
  - b. Submit a plan for the preservation and long-term maintenance of the Talburtt Tobacco Barn Historic Site (78-009).
  - c. Provide a plan for any interpretive signage to be erected and public outreach measures for the Talburtt Tobacco Barn Historic Site (78-009) located on proposed Parcel 1. The location and wording of the signage and the public outreach measures shall be subject to approval by the Maryland-National Capital Park and Planning Commission staff archeologist. The plan shall include the timing for the installation of the signage and the implementation of public outreach measures.
7. Prior to approval of the first grading permit, the applicant shall:
- a. Submit three hard copies and two digital copies on CD of the final Phase I archeology report to Historic Preservation staff.
  - b. Curate all artifacts at the Maryland Archaeological Conservation (MAAC) Laboratory in Calvert County, Maryland. Proof of the acceptance of the curated artifacts by the MAAC Lab shall be provided to Historic Preservation staff.
8. Total development within the subject property shall be limited to uses which generate no more than 289 AM peak-hour trips and 302 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.
9. Prior to issuance of each residential building permit, the applicant and the applicant's heirs, successors, and/or assignees shall, pursuant to the provisions of Prince George's County Council Resolution CR-66-2010 and the MD 4 (Pennsylvania Avenue)/Westphalia Road Public Facilities Financing and Implementation Program, pay to Prince George's County (or its designee) a fee of \$1,657.29 (in 2010 dollars) per dwelling unit, pursuant to the memorandum of understanding (MOU) required by CR-66-2010. The MOU shall be recorded in the Prince George's County Land Records. These unit costs will be adjusted based on an inflation cost index factor to be determined by the Prince George's County

Department of Permitting, Inspections and Enforcement, at the time of issuance of each permit.

10. Prior to issuance of each commercial building permit, the applicant and the applicant's heirs, successors, and/or assignees shall, pursuant to the provisions of Prince George's County Council Resolution CR-66-2010 and the MD 4 (Pennsylvania Avenue)/Westphalia Road Public Facilities Financing and Implementation Program, pay to Prince George's County (or its designee) a fee of \$3.72 (in 2010 dollars) per square foot, pursuant to the memorandum of understanding (MOU) required by CR-66-2010. The MOU shall be recorded in the Prince George's County Land Records. These unit costs will be adjusted based on an inflation cost index factor to be determined by the Prince George's County Department of Permitting, Inspections and Enforcement, at the time of issuance of each permit.
11. The applicant and the applicant's heirs, successors, and/or assignees shall provide adequate and developable areas for private on-site recreational facilities, in accordance with the standards outlined in the Prince George's County Parks and Recreation Facilities Guidelines. The private recreational facilities shall be reviewed by the Urban Design Section of the Development Review Division of the Prince George's County Planning Department for adequacy, proper siting, and establishment of triggers for construction with the submittal of the specific design plan.
12. 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) of the Prince George's County Planning Department, for construction of recreational facilities on-site for approval, prior to submission of final plats. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records and the Liber/folio indicated on the final plat, prior to recordation.
13. The applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for construction of private on-site recreational facilities, prior to issuance of building permits.
14. Prior to approval of each residential building permit, the applicant shall make a monetary contribution into a park club. The total value of the payment shall be \$3,500 per dwelling unit in 2006 dollars, as recommended by the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*. The Maryland-National Capital Park and Planning Commission shall adjust the amount of the contribution using the Consumer Price Index for inflation, at the time of payment. Monetary contributions shall be used for construction, operation, and maintenance of the public recreational facilities in the Westphalia Central Park and/or the other public parks that will serve the Westphalia Sector Plan area.
15. Prior to approval of a final plat of subdivision, the applicant shall enter into an agreement with the Prince George's County Department of Parks and Recreation establishing a mechanism for payment of fees into a park club account administered by the Maryland-National Capital Park and Planning Commission. If not previously determined, the agreement shall also establish a schedule of payments. The payment schedule shall include a formula for any needed adjustments to account for inflation. The agreement shall be recorded in the Prince George's County Land Records and the Liber/folio shall be noted on the final plat, prior to recordation.

16. Development of this site shall be in conformance with an approved stormwater management (SWM) concept plan and any subsequent revisions. The approved SWM concept number and approval date shall be noted on the final plat.
17. A substantial revision to the 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 approval of any building permits.
18. Prior to issuance of any permits which impact wetlands, wetland buffers, streams, or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
19. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-002-2018-01). 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 (TCP1-002-2018-01 or most recent revision), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George’s County Planning Department.”
20. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the final plat of subdivision:

“This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 Tree Conservation Plan, when approved.”
21. The applicant shall show the location of the mitigated safety factor line and the 25-foot building restriction line from the 1.5 safety factor line on the Type 2 tree conservation plan and the specific design plan, prior to approval, if applicable.
22. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area, except for any approved impacts 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.”

23. The final plat shall contain the following note:
- “The subject property contains areas of Marlboro Clay that is subject to a safety factor line. All buildings are subject to a 25-foot building restriction line from the safety factor line in accordance with Section 24-131 of the Subdivision Regulations, as shown on a specific design plan.”
24. Prior to approval of any final plat for this project, pursuant to Prince George’s County Council Resolution CR-66-2010, the owner/developer and its heirs, successors, and/or assignees shall execute a memorandum of understanding (MOU) with the County that sets forth the terms and conditions for the payment of fees by the owner/developer and its heirs, successors, and/or assignees, pursuant to the Public Facilities Financing and Implementation Program. The MOU shall be executed and recorded among the Prince George’s County Land Records and the Liber/folio noted on the final plat of subdivision.
25. Prior to approval, the final plat of subdivision shall include:
- a. Public street dedication, in accordance with the approved preliminary plan of subdivision.
  - b. The granting of public utility easements along all private and public roads, in accordance with the Prince George’s County Subdivision Regulations.
  - c. A note indicating a variance to Section 25-122(b)(1)(G) of the Prince George’s County Subdivision Regulations is approved by the Prince George’s County Planning Board, for the removal of one specimen tree (Specimen Tree 14), pursuant to approved Preliminary Plan of Subdivision 4-17034.
  - d. A note indicating a variance to Section 27-480(d) of the Prince George’s County Zoning Ordinance is approved by the Prince George’s County Planning Board to allow seven building groups to allow up to eight units, three building groups to allow nine units, and three building groups to allow ten units, pursuant to approved Preliminary Plan of Subdivision 4-17034.
  - e. A note indicating a variation from Section 24-128(b)(7)(A) of the Prince George’s County Subdivision Regulations is approved by the Prince George’s County Planning Board to allow 137 townhouse lots to be served by alleys, without frontage on a public street, pursuant to approved Preliminary Plan of Subdivision 4-17034.
26. Prior to approval of the final plat, the applicant and the applicant’s heirs, successors, and/or assignees shall demonstrate that a homeowners association has been established for the subdivision. The draft covenants shall be submitted to the Subdivision and Zoning Section of the Development Review Division of the Prince George’s County Planning Department to ensure that the rights of the Maryland-National Capital Park and Planning Commission are included. The Liber/folio of the declaration of covenants shall be noted on the final plat, prior to recordation.

27. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association land, as identified on the approved preliminary plan of subdivision. 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 of the Prince George's County Planning Department.
  - b. All waste matter of any kind shall be removed from the property, 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 or soil filling, other than the placement of fill material associated with permitted grading operations 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 the association shall be in accordance with an approved site plan and tree conservation 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 the association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division of the Prince George's County Planning Department.
  - f. The Prince George's County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.
28. Prior to construction, the applicant shall contact the Prince George's County Fire/EMS Department to request a pre-incident emergency plan for the facility; install and maintain automated external defibrillators, in accordance with COMAR; and install and maintain hemorrhage kits next to fire extinguishers. This requirement shall be noted on the final plat and permit site plans.
29. Prior to acceptance of a specific design plan, a Phase II noise analysis that demonstrates that any outdoor activity areas are located outside of the mitigated 65 dBA Ldn and that the building structures proposed mitigate interior noise levels to 45 dBA Ldn or less shall be provided.
30. Prior to approval of a building permit, which includes residential dwelling units located within the unmitigated 65 dBA Ldn noise contour, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.



**STAFF RECOMMENDS:**

- Approval of Preliminary Plan of Subdivision 4-17034
- Approval of Type 1 Tree Conservation Plan TCP1-002-2018-01
- Approval of a Variance to Section 25-122(b)(1)(G)
- Approval of a Variance to Section 27-480(d)
- Approval of a Variation from Section 24-128(b)(7)(A)