



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

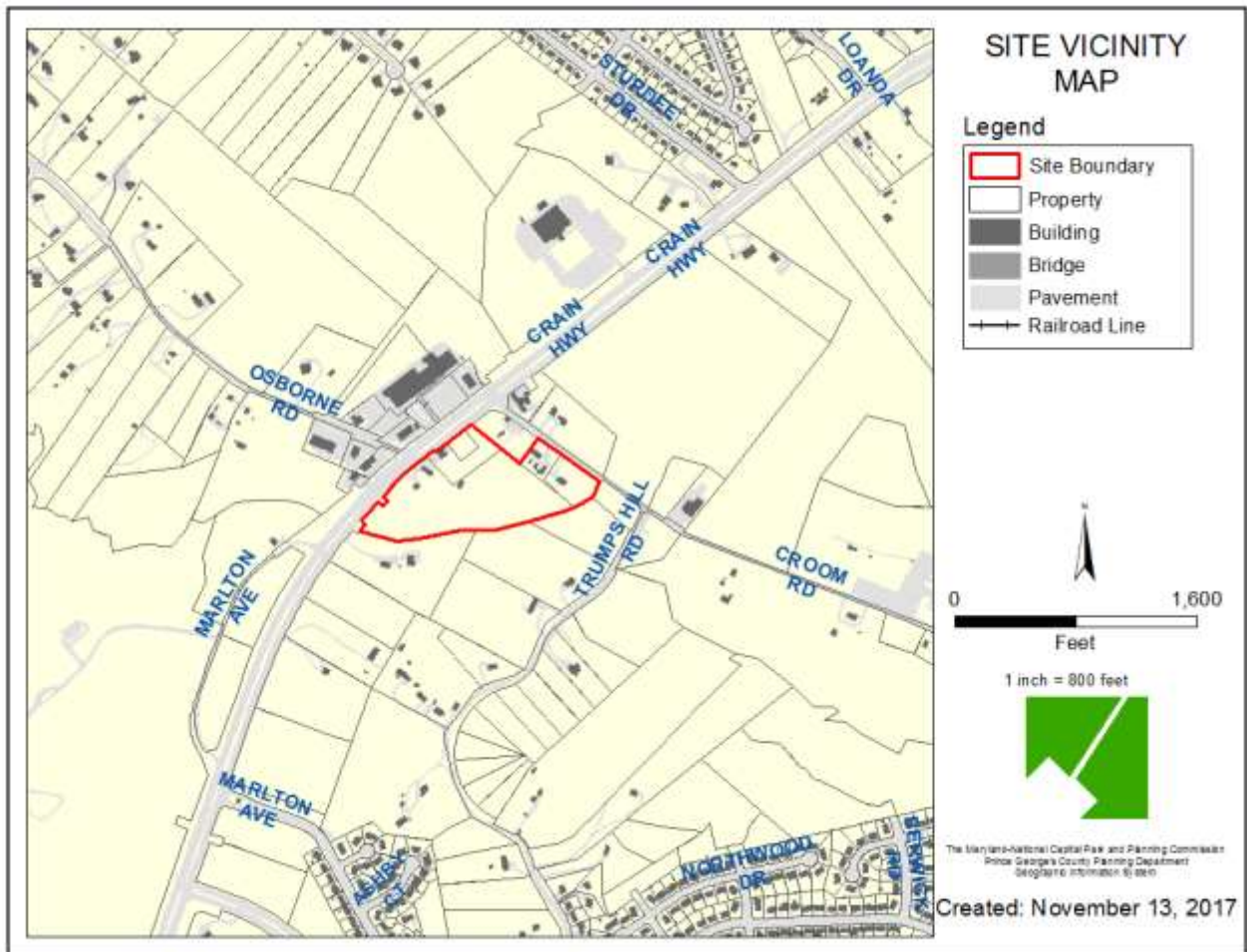
## Preliminary Plan of Subdivision

**4-17039**

Application	General Data	
<b>Project Name:</b> Crain Commons  <b>Location:</b> Located along northbound US 301 (Robert Crain Highway), approximately 160 feet south of its intersection with MD 382 (Croom Road).  <b>Applicant/Address:</b> Petroleum Marketing Group, Inc. 12680 Darby Brooke Court Woodbridge, VA 22192  <b>Property Owner:</b> Steven K. Flowers et al., and Rebecca D. Flowers 8451 Meadowview Circle Owings Mills, MD 20736  Croom Road, LLC 7611 Croom Road Upper Marlboro, MD 20772  7700 SE Crain, LLC 12680 Darby Brooke Court Woodbridge, VA 22192  Jack R. Bell and Peter Laurenzan 8538 Gleneagle Way Naples, FL 34120-1683  7624 SE Crain, LLC 12680 Darby Brooke Court Woodbridge, VA 22192	Planning Board Hearing Date:	07/26/18
	Staff Report Date:	07/19/18
	Date Accepted:	03/26/18
	Planning Board Action Limit:	09/13/18
	Mandatory Action Timeframe:	140 days
	Plan Acreage:	15.36
	Zone:	C-S-C/R-R
	Gross Floor Area:	10,250 sq. ft.
	Lots:	76
	Parcels:	12
	Planning Area:	82A
	Council District:	09
	Election District	15
	Municipality:	N/A
	200-Scale Base Map:	210SE11

Purpose of Application	Notice Dates	
76 lots and 12 parcels for single-family attached (townhouse) development and 10,250 square feet of commercial development.  <b>Variation from Section 24-121(a)(3)</b> <b>Variance to Section 25-122(b)(1)(G)</b>	Informational Mailing	02/06/18
	Acceptance Mailing:	05/15/18
	Sign Posting Deadline:	06/26/18

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Amber Turnquest <b>Phone Number:</b> 301-952-3554 <b>E-mail:</b> Amber.Turnquest@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
		<b>X</b>	



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-17039  
Crain Commons  
Type 1 Tree Conservation Plan TCP1-003-2018

OVERVIEW

The subject site is located in the southwest quadrant of the intersection of MD 382 (Croom Road) and US 301 (Robert Crain Highway). This preliminary plan of subdivision (PPS) includes Parcels 47, 53, 64, and 103 recorded in the Prince George's County Land Records in Liber 32304 at folio 11, Liber 9236 at folio 187, Liber 36669 at folio 565, and Liber 24434 at folio 147, respectively. The PPS also includes Lot 1 recorded in Plat Book MMB 236-7 and Lot 3 recorded in Plat Book NLP 139-68. The site is located in the Commercial Shopping Center (C-S-C) and Rural Residential (R-R) Zones and is subject to the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (Subregion 6 Master Plan and SMA). Parcels 47, 53, and 103 and Lots 1 and 3 are undeveloped. Parcel 64 is currently developed with a gas station.

The applicant proposes the creation of two separate development pods on the site. The first development pod would contain proposed Parcel 1 to ultimately have 10,250 square feet of commercial development accessed from US 301. The second development pod would be for the townhouse development and is proposed to have 76 lots and 11 parcels accessed from MD 382, as discussed further.

The site abuts Robert Crain Highway to the north, an existing arterial roadway. Section 24-121(a)(3) of the Subdivision Regulations requires that sites adjacent to a planned arterial roadway not access those roads directly and be designed to front on an interior road. The applicant requests approval of a variation for direct access onto an arterial roadway, as discussed further.

The applicant has also requested a Variance to Section 25-122(b)(1)(G) of the Prince George's County Code for the removal of five specimen trees, as discussed further.

Staff recommends **disapproval** of the PPS and, consequently, the companion variance and variation. The recommendation for disapproval is twofold; the application does not conform to the master plan nor the *Plan Prince George's 2035 Approved General Plan* (Plan 2035), as discussed further in the Community Planning finding of this technical staff report; and the applicant proposes private roads and alleys for more than four lots in the R-R Zone, a contravention of the Subdivision Regulations, as discussed further in the Private Roads and Alleys finding of this technical staff report.

## SETTING

The property is located on Tax Map 109 in Grids F-3 and F-4, located in Planning Area 82A, and is zoned C-S-C and R-R. The subject property is bounded to the northeast by commercial development in the C-S-C Zone and Croom Road, with property beyond in the Residential-Agricultural (R-A) Zone which is developed with single-family detached residential. Adjacent property to the southeast and southwest is zoned Residential-Estate (R-E) and consists of properties, which are vacant and developed with single-family detached residential, respectively. Robert Crain Highway bounds the site to the northwest, with property beyond zoned C-S-C, which is developed with commercial uses.

## FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	C-S-C (2.85 acres) R-R (12.51 acres)	C-S-C (2.85 acres) R-R (12.51 acres)
Use(s)	Vacant	Commercial Single-Family Attached (Townhouse)
Acreage	15.36	15.36
Gross Floor Area	0	10,250 square feet
Parcels	4	12
Lots	2	76
Outlots	0	0
Variance	No	Yes 25-122(b)(1)(G)
Variation	No	Yes 24-121(a)(3)

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 6, 2018. At the April 6, 2018 SDRC meeting, staff thoroughly discussed the need for a variation from Section 24-121(a)(3) of the Subdivision Regulations and the statement of justification, in support of the variation, was received on June 21, 2018, as required by Section 24-113(b) of the Subdivision Regulations.

2. **Previous Approvals**—Lot 1 of the site was subject to a previously approved PPS (4-10017) (PGCPB Resolution No. 11-32), approved by the Prince George's County Planning Board on April 14, 2011, which resubdivided one lot and two parcels into one lot and one parcel. Lot 1 contained an existing single-family detached dwelling, which was to remain. This PPS (4-17039) is proposed to supersede the previous approval for Lot 1 of the subject site.
3. **Community Planning**—Staff finds that this application does not conform, as required by Section 24-121(a)(5), to the Subregion 6 Master Plan and SMA and Plan 2035 because it proposes a residential density that:
  - Is almost twice that recommended by the master plan's future land use classification of the application site;

- Contradicts Plan 2035's Growth Policy 1 (Concentrate Future Growth), which concentrates most new residential development in regional transit districts and local centers that are not near the application site, but instead are mostly located near the western edge of the County, away from the rural and agricultural areas;
- Does not conform with Plan 2035's Community Character Principle 6 and Policy HD 13.3 in the Community Heritage, Culture, and Design element, that recommends careful transitions near the border between established communities and rural and agricultural areas, and development strategies to preserve land for resource protection or open space;
- Is not in character with the existing surrounding low-density residential development pattern and so is not context-sensitive, as Plan 2035 recommended in its designation of the application site in the Established Communities area.

Although the Prince George's County District Council amended the Zoning Ordinance in Council Bill CB-122-2017, to allow townhouses as a by-right permitted use in the R-R and C-S-C Zones, the District Council exempted townhouses from the development standards of those zones without adopting any development standards to govern townhouse development in these zones. Instead, the District Council delegated that authority, without any guidance or minimum standards, to the Planning Board as part of the detailed site plan (DSP) review process (Section 27-441(b), Note 123 for the R-R Zone; Section 27-461(b), Note 68 for the C-S-C Zone).

This delegation runs afoul of two related legal principles established by the Court of Appeals. First, the District Council's zoning authority is not inherent, but instead derives from the grant of the General Assembly, which carefully delineated the extent of that zoning authority and the procedures for exercising it and did not authorize any sub-delegation of the District Council's zoning authority, which is legislative in nature (Md. Code Ann., Land Use, §22-104). Second, however, the District Council can assign the administrative responsibility to implement the District Council's exercise of the zoning authority to the Planning Board, but where it is "for the purpose of implementing a prior, specific legislative determination ... [that] is accompanied by standards sufficient to limit and direct the exercise of discretion on the part of the agency or official to whom the power is delegated." (*West Montgomery County Citizens Ass'n v. M-NCPPC*, 309 Md. 183, 199, 522 A.2d 1328, 1336 (Md. 1987)). CB-122-2017 failed to provide sufficiently detailed standards to the Planning Board to qualify as an administrative implementation. Instead the completely unrestricted assignment to the Planning Board to determine the development standards falls outside the District Council's zoning authority and is therefore, "impermissible ... [as] no legislative determination was made to limit or define the optional densities that could or should be assigned to any property" (*West Montgomery*, 309 Md. at 200).

As a result, the only density standards available to the Planning Board to review this application are standards that have been approved by the District Council, those contained in the master plan and Plan 2035. The proposed retail does conform to the master plan and Plan 2035.

### **General Plan**

Plan 2035 classifies the application site in the Established Communities category, defined as existing residential neighborhoods and commercial areas served by public water and sewer outside of regional transit districts and local centers, in which Plan 2035's Growth Policy 1 states that 75 percent of future residential development should be developed, with only 20 percent of

development in the Established Communities area. Plan 2035 adopted this policy in order to concentrate residential development in a limited number of centers “to achieve the density, intensity and form necessary to support successful mixed-use, walkable communities and economic generators” (page 103). The subject site is almost eight miles from the nearest regional transit district at Branch Avenue Metro and over four miles from the nearest local center at Westphalia. Plan 2035 defines the Established Communities area as “most appropriate for context-sensitive infill and low- to medium-density development” (page 20). The proposed subdivision is not in keeping with the character of the surrounding residential development pattern. Growth Policy 8 calls for Established Communities areas located, like the subject property, adjacent to rural and agricultural areas designated for conservation of agricultural and forest resources, to adopt development patterns that reduce density as a transition adjacent to rural and agricultural areas. This proposal would increase residential density adjacent to a rural and agricultural area. (see Figure 1)

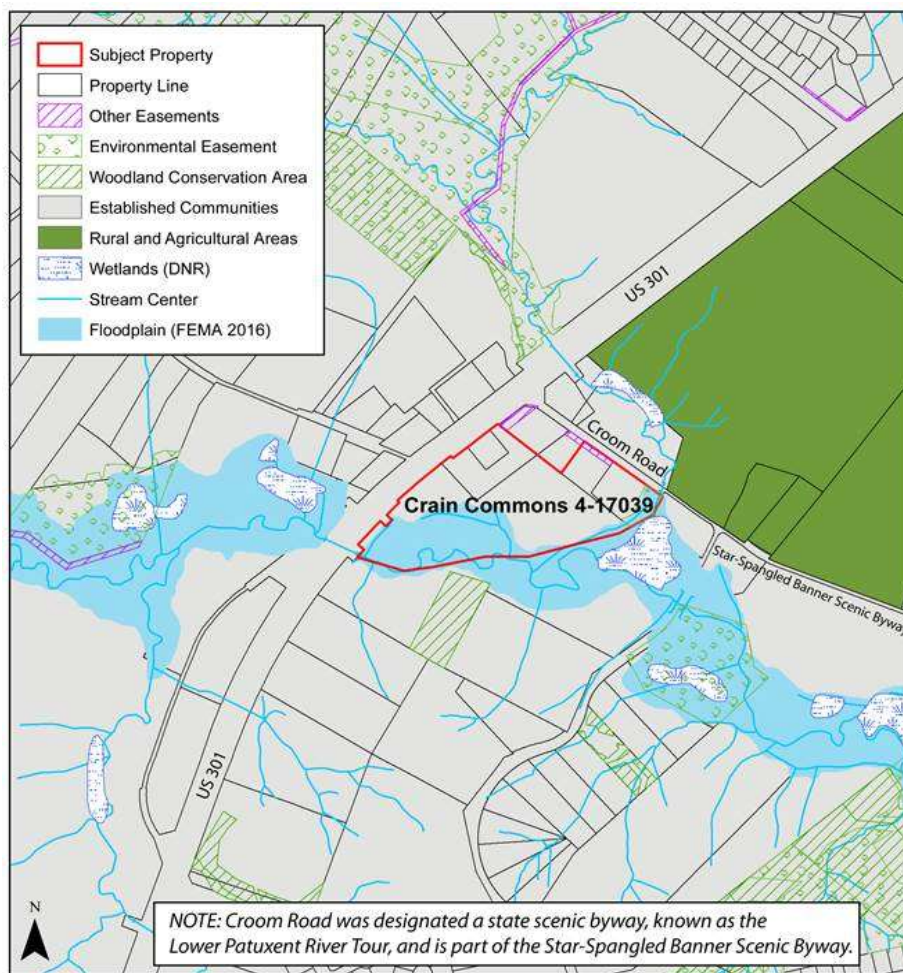


Figure 1: Map Showing Charles Branch; Environmental Features; Plan 2035 Growth Policy Areas.

### Master Plan

The Subregion 6 Master Plan and SMA (CR-82-2013) makes the following recommendations that affect the application site:



- Include a master planned right-of-way for US 301 through the center of the application site as shown in the Transportation section of the master plan on Map 14: US 301 Corridor Road Improvements (page 86).
- Protect Charles Branch as a Secondary Environmental Corridor (pages 64 and 66).
- Preserve Croom Road as a designated State Scenic Byway known as the Lower Patuxent River Tour, incorporated into the Star-Spangled Banner Scenic Byway (pages 102 and 165).

In addition, the master plan recommends residential low as the future land use for most of the application site (12.51 acres), with commercial future land use recommended for the remaining northern portion (2.51 acres). Residential low is defined as “residential development up to 3.5 dwellings per acre, primarily single-family detached dwellings,” while commercial is defined as “retail and business areas, including employment uses such as office and service uses” (page 40, see Figure 2).

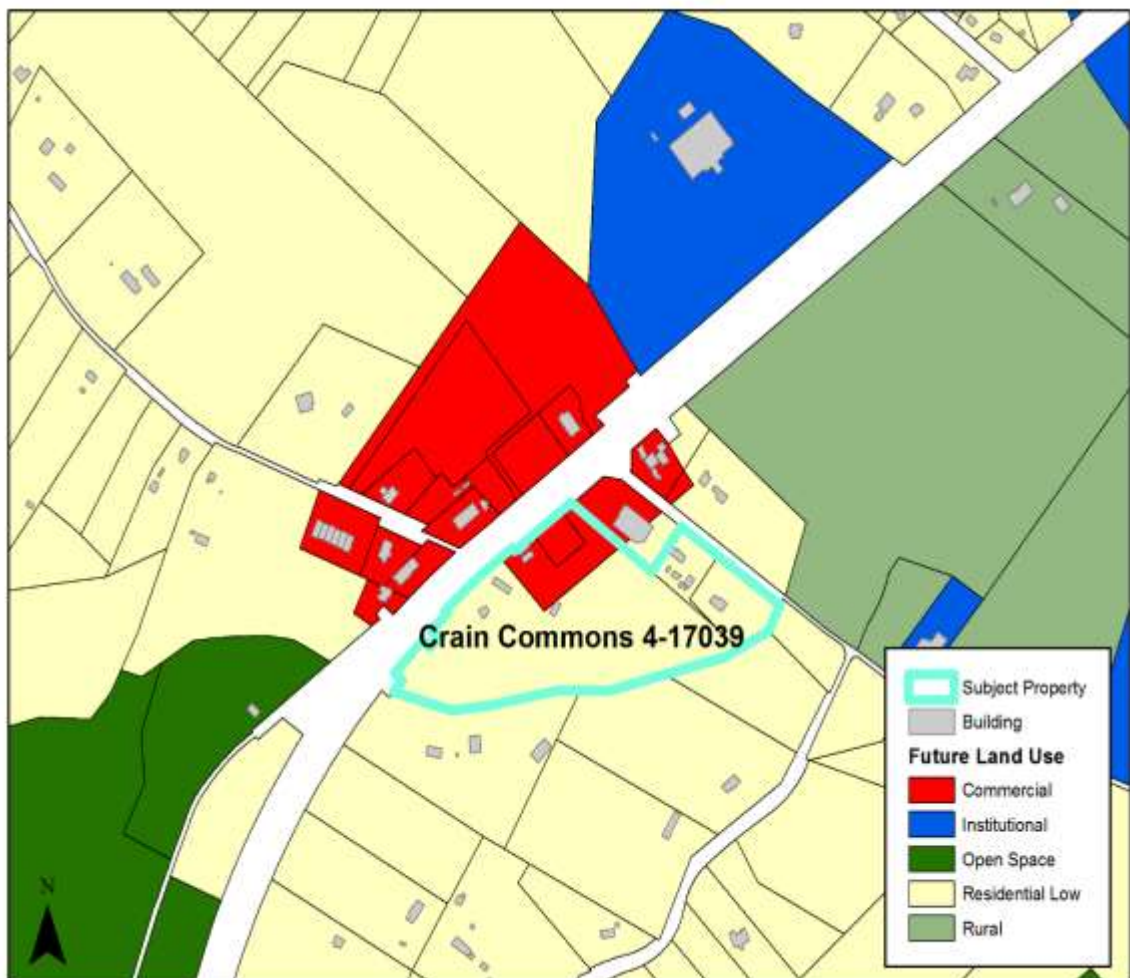


Figure 2: Recommended Future Land Use (Subregion 6 Master Plan)

### **SMA/Zoning**

The Subregion 6 Master Plan and SMA (CR-83-2013) retained the application site in the R-R Zone, which has an effective base density maximum of 2.17 units per acre, and the remaining 2.85 acres in the C-S-C Zone. In retaining the R-R and C-S-C Zones, the SMA implemented future land use recommendations in the master plan (residential low and commercial).

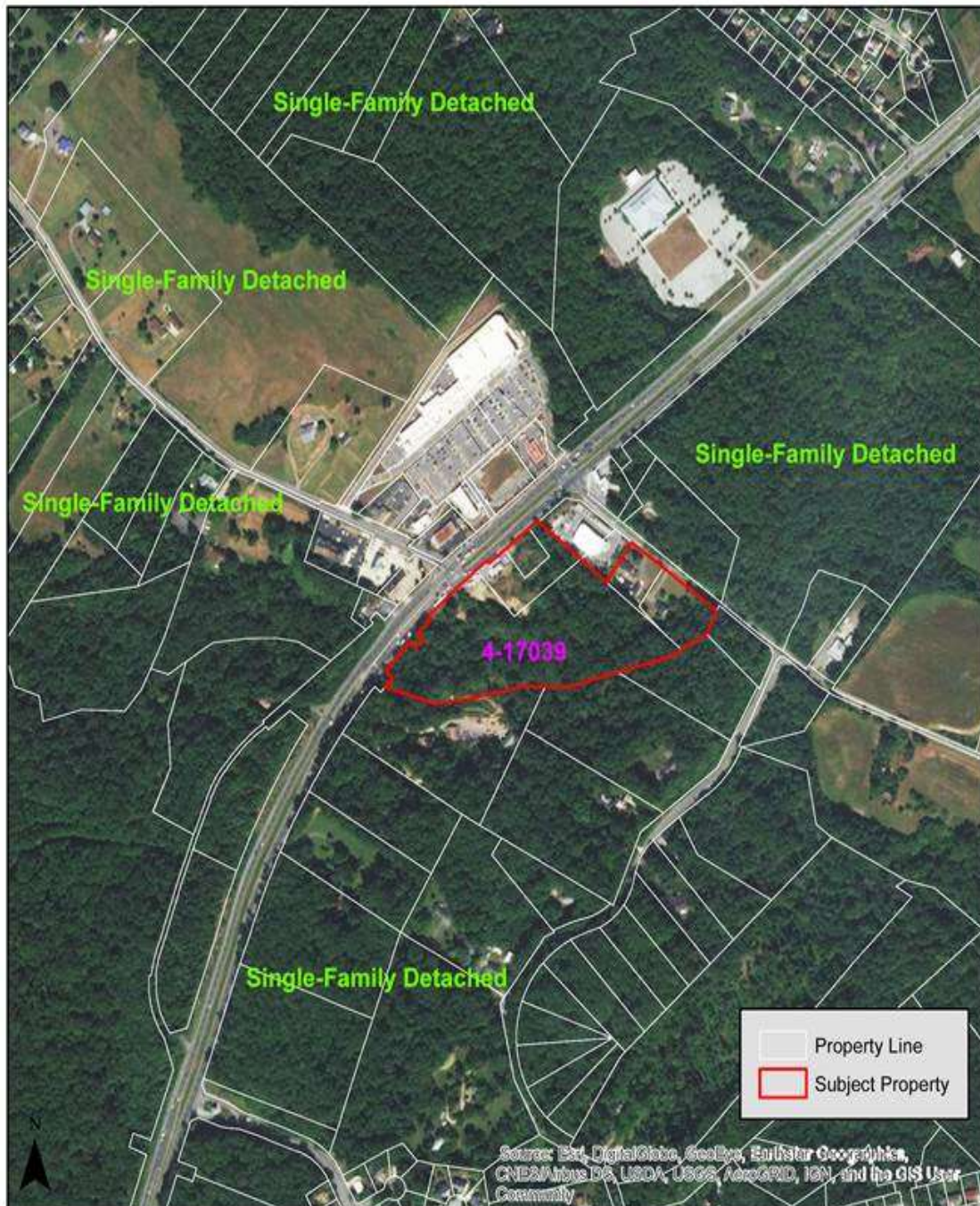
### **Master Plan and General Plan Conformance Issues**

The application's proposed development of 76 townhouses (single-family attached housing) on small lots ranging from 1,490 square feet to 2,080 square feet is inconsistent with the existing surrounding land use and development and is, therefore, not context-sensitive infill development as called for in Plan 2035's definition of the Established Communities area. The proposed higher density is not consonant with Plan 2035's policy for residential development in Established Communities areas that border rural and agricultural areas because the proposal does not create a transition, reduced density, adjacent to rural and agricultural areas. The proposed higher density residential development, at the subject location, also contradicts the Plan 2035's Growth Policy 1, directing that 75 percent of new residential development be concentrated in regional transit districts and local centers. This application site is almost eight miles away from the nearest regional transit district at Branch Avenue and over four miles from the nearest local center at Westphalia.

The proposed construction of 76 townhouses on 12.51 acres of R-R and on 0.25 acre of C-S-C-zoned land would result in residential development at a density of 6.03 dwelling units per acre. This is an increase of over 70 percent above the 3.5 dwelling units per acre definition of the Residential Low category of the master plan's future land use for the application site, which contemplates no more than 45 residences on 12.76 acres. The base maximum density for the R-R Zone (one dwelling unit per 20,000 square feet) would only allow 27.68 dwelling units on 12.76 acres. This lower number of dwelling units would be in conformance with the future land use recommended in the master plan and would be more consistent with the predominant character of the existing surrounding residential development of single family detached homes on large lots ranging from 20,000 square feet to one acre or greater in size (see Figure 3).

Due to the findings set forth above, staff is compelled to recommend **disapproval** of the PPS.





**Figure 3. Aerial showing the surrounding residential development is large lot, single-family detached.**

4. **Stormwater Management**—A Stormwater Management (SWM) Concept Letter and Plan, 57752-2017, has been approved by the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE). The SWM concept plan shows the proposed use of numerous micro-bioretenion areas and drywells. Because of the location of the project within a historic flooding watershed, 100-year quantity control is required. Development must be in conformance with the SWM concept plan, or subsequent revisions, to ensure that on-site or downstream flooding does not occur.

5. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements of the Subdivision Regulations, the master plan, and the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, as they pertain to public parks and recreational facilities and applicable to the review of a PPS.

The subject development is comprised of 2.85 acres of land zoned C-S-C and 12.51 acres of land zoned R-R. The subject property is not adjacent to any Maryland-National Capital Park and Planning Commission (M-NCPPC)-owned property.

The current proposal indicates that the site will be developed as a mixed-use development consisting of 76 single-family attached residential homes and 10,250 square feet of commercial/retail along US 301. 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 may be required to dedicate 15 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 1.12 acres of land to M-NCPPC.

The master plan section for public facilities, parks and recreation states:

**Policy 4: Conserve stream valleys and other valuable natural resource areas.**

More specifically, Map 20, Public Parks, Recreation, and Open Space designates future lands for the Charles Branch Stream Valley as a master-planned stream valley park with active and passive recreation. The subject development plan contains approximately 5.5 acres of 100-year floodplain along the Charles Branch. Section 24-134(a)(4) states that when land is shown for preservation as part of a stream valley park on an official master plan, such land may be dedicated or preserved in lieu of active recreation, provided that the Planning Board finds that there is a reasonable amount of active recreation in the general area and that any trails shown on the master plan are provided. The subject property is located in close proximity to two M-NCPPC-owned parks, Marlton Park and Fairhaven Park. Both parks contain a variety of recreational facilities which will serve the new residents of this development. As such, dedication of the floodplain portion of the subject property to M-NCPPC (approximately 6.2 acres) to meet the recommendations of the master plan as related to the Charles Branch Stream Valley Park would be appropriate. The proposed dedication area contains the 100-year floodplain, wetlands and stream buffers. The dedication of this parcel will facilitate further Prince George's County Department of Parks and Recreation (DPR) efforts to acquire properties to the south to connect to the existing Charles Branch Stream Valley Park that is owned M-NCPPC. In addition, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) calls for a master-planned trail to be implemented along Charles Branch. The dedication of this property would greatly enhance the implementation of this trail, at the time of the design phase.

Notwithstanding the staff recommendation of disapproval for this application, based on the applicant's proposal, staff would recommend the conveyance of parkland for the purposes of meeting the mandatory dedication of parkland requirements for this site.

6. **Trails**—This PPS was reviewed for conformance with the MPOT and the Subregion 6 Master Plan and SMA (area master plan) to implement planned trails, bikeways, and pedestrian improvements. The property is not located within a designated Center or Corridor; therefore, it is not subject to Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines, Part 2.”

**Master Plan Compliance**

Two master plan trail/bikeway issues impact the subject property, the Charles Branch Trail runs long a portion of the southwest boundary of the property, and a planned bikeway along Croom Road (MD 382). The area master plan includes the following text regarding these planned facilities:

**MD 382 (Croom Road) Bikeway:** Primary route through Rural Tier; provides access to parkland and historic sites along the Patuxent River (page 106).

**Charles Branch Stream Valley Trail:** This trail will connect from Dower House Road to the Patuxent River. This is a long-term project where much land remains to be acquired. The trail will provide access to Rosaryville State Park and the Patuxent River, as well as serve as part of the cross-county connection with the Piscataway Creek Stream Valley Trail. The Charles Branch corridor serves as an important connection for equestrians to the state park (pages 108–109).

DPR is recommending dedication of the stream valley to accommodate this future master plan trail. No trail construction is recommended at this time as additional land acquisition is necessary to accommodate the trail in the vicinity of the subject site and the suitable crossing location of US 301 needs to be determined. MD 382 is a designated bicycle route serving the Rural Tier. It is also a scenic and historic road. Frontage improvements should accommodate bicycle movement consistent with state guidance while respecting the scenic and rural nature of the road. A condition of approval for frontage improvements was applied to the adjacent commercial site to the north, also fronting on MD 382, and is recommended for the subject site.

The Complete Streets section of the MPOT includes the following policies regarding sidewalk construction and the accommodation of pedestrians.

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

**POLICY 2: All road frontage improvements and road capital improvement projects within the developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.**

Notwithstanding staff’s recommendation of disapproval of this application, sidewalks would be recommended along both sides of all internal roads, excluding alleys.

7. **Transportation**—The application analyzed is a PPS for a mixed-use development. The applicant is proposing a mix of commercial and residential (townhouse) uses. The traffic impact analysis (TIA) was based on 77 units however, at a subsequent submittal, the applicant revised the PPS for 76 units. Using trip generation rates from the “Transportation Review Guidelines, Part 1,” the proposed development of 76 townhomes and 10,250 square feet will generate 99 AM and 170 PM

total trips. Because the site is already generating traffic due to the existing uses, the new trip generation will be 57 AM (16 in; 41 out) and 122 PM (69 in; 53 out) net new trips.

The proposed development will impact the following intersections deemed to be critical:

- US 301 and Croom Road (MD 382) - signalized
- US 301 and Osborne Road - signalized
- US 301 and Site Access
- Croom Road and Site Access 1
- Croom Road and Site Access 2

The findings and recommendations outlined below are based upon a review of the materials and analyses conducted, consistent with the Guidelines.

The subject property is located within the 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 (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better;

**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. Once the CLV exceeds 1,150, this is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

**Roundabouts:** Where the analysis using *The Highway Capacity Manual* (Transportation Research Board) indicates a volume-to-capacity (v/c) ratio greater than 0.850 for the intersection, geometric improvements or trip reduction measures should be considered that will reduce the v/c ratio to an acceptable level. The operating agency can deem a v/c between 0.850 and 0.900 to be acceptable, and that agency must do this in writing in order for the Planning Board to make a similar finding.

Since the trip generation for the proposed development is projected to exceed 50 trips in either peak hour, the applicant has provided a dated January 2018. Using data from this TIA, the following results were determined:

EXISTING CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301 and Croom Road (MD 382)	D/1415	C/1222
US 301 and Osborne Road	C/1226	D/1308
US 301 and Site Access *	<50 seconds	<50 seconds
MD 382 and Site Access 1 *	<50 seconds	<50 seconds
MD 382 and Site Access 2 *	<50 seconds	<50 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 <i>The Highway Capacity Manual</i> (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, three background developments were identified in the TIA. In addition, a growth factor of one percent per year for six years were applied to the through traffic along US 301. A background scenario analysis based on future developments yielded the following results:

BACKGROUND CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301 and Croom Road (MD 382)	<b>E/1503</b>	D/1306
US 301 and Osborne Road	D/1306	D/1394
US 301 and Site Access *	<50 seconds	<50 seconds
MD 382 and Site Access 1 *	<50 seconds	<50 seconds
MD 382 and Site Access 2 *	<50 seconds	<50 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 <i>The Highway Capacity Manual</i> (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.		

Regarding the total traffic scenario, the subject property is currently improved with two single family homes and a gas station with six fueling positions. These two uses generate 42 AM and 48 PM existing trips. The proposed development of 76 townhomes and 10,250 square feet of commercial retail will generate 99 AM and 170 PM total trips.

Table 1						
Trip Generation Summary						
Land Use	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Proposed retail - 10,250 square feet	123	111	234	96	100	196
<i>Less pass-by Trips</i>	-98	-91	-189	-43	-45	-88
<b>New Retail Trips</b>	<b>25</b>	<b>20</b>	<b>45</b>	<b>53</b>	<b>55</b>	<b>108</b>
Proposed townhouses - 77 units	11	43	54	40	22	62
<b>Total Trips (new trip cap) 1</b>	<b>36</b>	<b>63</b>	<b>99</b>	<b>93</b>	<b>77</b>	<b>170</b>
Existing Development						
Convenience Store	49	50	99	57	57	114
<i>Less pass-by trips</i>	29	30	59	34	34	68
Total convenience store trips	20	20	40	23	23	46
Single Family – two units	0	2	2	1	1	2
<b>Total existing (to be removed) 2</b>	<b>20</b>	<b>22</b>	<b>42</b>	<b>24</b>	<b>24</b>	<b>48</b>
<b>Net new trips based on redevelopment (1-2)</b>	<b>16</b>	<b>41</b>	<b>57</b>	<b>69</b>	<b>53</b>	<b>122</b>

Because the existing facilities are generating traffic, and will be subsequently razed, the trips associated with those uses will be subtracted from the total new trips generated by the new development. Consequently, the total traffic was evaluated based on 57 AM and 122 PM net new trips. A third analysis (total traffic) revealed the following results:

TOTAL CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301 and Croom Road (MD 382) <i>With mitigation</i>	<b>E/1529</b> <i>E/1487</i>	<b>D/1318</b> <i>D/1318</i>
US 301 and Osborne Road	D/1318	D/1445
US 301 and Site Access *	<50 seconds	<50 seconds
MD 382 and Site Access 1 *	<50 seconds	<50 seconds
MD 382 and Site Access 2 *	<50 seconds	<50 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 <i>The Highway Capacity Manual</i> (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.		

The results of the traffic analyses show that under total traffic, all of the critical intersections are deemed to be operating adequately with the exception of the US 301/Croom Road intersection. To mitigate the failing intersection, the TIA recommended the following geometric changes:

- Reconfigure the intersection to provide an exclusive left lane and a shared through/right lane on the eastbound approach.

These changes will result in a lowering of the AM CLV by a margin of 42 fewer critical trips. Given that the proposed development added 26 CLV's, pursuant to the rules of mitigation (Section 24-124(a)(6)), the proposed improvements must remove at least 150 percent of the



development generated CLV ( $1.5 \times 26 = 39$ ). This requirement was achieved. Consequently, staff concurs with the TIA recommendation that the proposed improvement will satisfy the transportation adequacy requirement pursuant to the use of mitigation.

### **Agency review**

The TIS was referred to and reviewed by representatives from the Prince George's County Department of Public Works and Transportation (DPW&T), as well as the Maryland State Highway Administration (SHA). Since both off-site critical intersections are under the control of SHA, a memorandum from DPW&T deferred to SHA for comments. Staff is receipt of a May 11, 2018 letter from SHA to Mike Lenhart, in which SHA addressed its comments and concerns regarding the TIA. In that letter, SHA expressed its concurrence with the TIA findings as currently proposed, and further states that no additional traffic analyses are required.

### **Master Plan Reservation**

The property is located in an area where the development policies are governed by the Subregion 6 Master Plan and SMA, as well as the MPOT. Two of the recommendations from the master plans are the upgrade of US 301 to a freeway (F-10) and the creation of a service road (MC-602). Based on SHA's *1999 US 301 Access Control Study*, the proposed alignments for both F-10 and MC-602 will have a significant impact on the subject property. If that alignment becomes the selected alternate for the future facilities, approximately 58 percent (8.83 acres) of the 15.36-acre site will have to be acquired by SHA as part of the overall right-of way. To that end, staff prepared a March 30, 2018 letter to SHA (Masog to Woodroffe), regarding placement of the affected portion of the site in reservation. Specifically, the letter was seeking a written response from SHA acknowledging its willingness to acquire the reserved property, and an estimate regarding when such acquisition can be achieved. Staff's letter requested a response by April 30, 2018. Despite two subsequent follow-up electronic requests, staff has not received any response from SHA. As a result of SHA's lack of response, the required findings regarding initiation of reservation pursuant to Section 24-139 of the Subdivision Regulations cannot be made. Therefore, staff will not be recommending reservation for any portion of the subject property.

### **Variation Request**

Staff is in receipt of a petition by the applicant, requesting a variation from Section 24-121(a)(3) of the Subdivision Regulations, which limits individual access to roads of arterial and higher classification. In executing this variation request, the applicant must meet several legal requirements pursuant to Section 24-113(a). Those requirements are shown in **bold text** (with the applicant's response below:

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

Two access points are requested. The first proposed access point is to align with and utilize the existing signal at the intersection of Robert Crain Highway and South Osborne Road. The second proposed access point is a right-in and right-out at the property's eastern frontage, which is approximately 160 feet south of the intersection with Croom Road. Proposing an access point at the existing traffic signal provides safe access to the public right-of-way at a controlled intersection. The second access point, as a right-in and right-out, allows an additional point of access with controlled movement. The construction of both driveways will be in accordance with all requisite agency approval(s), as to design standards. Robert Crain Highway is a divided road with only eastbound

travel lanes and right-in and right-out movements available to access the property. Both access points are designed to provide safe ingress and egress to the parcel, so as to not jeopardize the flow of traffic along Robert Crain Highway. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other properties.

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

The subject property and conditions on which the variation is based are unique since Robert Crain Highway is the only access point available for the retail portion of the development. There is a change in topography of the property which has a high point fronting Robert Crain Highway sloping down to the back of the property, and the areas of development are further restricted by the primary management area (PMA) that encumbers approximately six acres of the property over the southern portions of the property. The development proposes two separate areas; a commercial/retail area fronting on Robert Crain Highway, and a single-family attached residential development that will access Croom Road. There are no internal streets or service roads accessible in the area. Without access to Robert Crain Highway, the retail/commercial portion of the site would not be buildable, because there are no other options for access.

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

Because the applicant will be required to obtain DSP approval prior to obtaining any building permits, the approval of this variation request will not constitute a violation of other applicable laws. In addition, the proposed driveways will be designed in direct coordination with SHA, in order to meet all requisite requirements and design standards.

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

Due to the particular physical surroundings, with the adjacent properties improved with a CVS Pharmacy to the east and single-family detached residences, the denial of this variation request would result in a hardship to the property owner. As indicated above, Robert Crain Highway is the only access point available for the retail/commercial portion of the site. There is no other option for access that exists at this time.

- (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 requirement is not applicable because the site is zoned C-S-C and R-R; therefore, this provision does not apply.

Staff finds that the required findings of Section 24-113 have been adequately addressed by the applicant. However, because staff does not find that the proposed subdivision conforms to the required findings of conformance with the master plan and the development of private streets and alleys to serve the proposed development is not permitted, staff is compelled to recommend disapproval of the variation to Section 24-121(a)(3) for direct access to an arterial roadway.

Private roads and alleys are proposed with this development; internal access and circulation are acceptable. However, the use of private streets and alleys, to serve the proposed subdivision is not permissible according to Section 24-128 of the Subdivision Regulations and is further in the finding below.

Notwithstanding the determination that private streets and alleys are not permitted in this instance, based on the preceding findings, adequate transportation facilities will exist to serve the proposed subdivision as required, in accordance with Section 24-124, with conditions.

8. **Private Roads and Alleys**—The residential portion of the subject site proposes private roads and alleys in the R-R Zone. Section 24-128(b)(1) of the Prince George’s County Subdivision Regulations restricts the approval of a PPS containing private roads, rights-of-way, alleys and/or easements to developments with not more than four lots in the R-R Zone. If permitted, the private roads and alleys proposed with this development; would have acceptable internal access and circulation. Council Bill, CB-5-2018 (DR-2) to permit the Planning Board to approve private roads and alleys in the Commercial Miscellaneous (C-M), C-S-C, and R-R Zones under certain circumstances was approved by the County Council on April 17, 2018. At the time of the writing of this technical staff report, the bill had not yet been signed by the County Executive. Therefore, staff finds that the proposed subdivision does not satisfy the requirements of Section 24-128 of the Subdivision Regulations and recommends disapproval of the PPS.
9. **Schools**—This PPS was reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and Council Resolution CR-23-2003 for the residential units proposed and the following is concluded:

#### **Residential**

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

Affected School Clusters	Elementary School Cluster 6	Middle School Cluster 6	High School Cluster 6
Dwelling Units	77	77	77
Pupil Yield Factor	0.145	0.076	0.108
Subdivision Enrollment	11	6	8
Actual Enrollment in 2017	5,029	1,885	2,543
Total Enrollment	5,040	1,891	2,551
State Rated Capacity	6,425	2,457	3,811
Percent Capacity	78%	77%	67%

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

In 2013, Maryland House Bill 1433 reduced the school facilities surcharge by 50 percent for multifamily housing constructed within an approved Transit District Overlay (T-D-O) Zone; or where there is no approved T-D-O Zone, then within a one-quarter mile of a Metro station; or within the Bowie State MARC Station Community Center Designation Area, as defined in the 2010 *Approved Bowie State Marc Station Sector Plan and Sectional Map Amendment*. The bill also established an exemption for studio or efficiency apartments that are located within the county urban centers and corridors, as defined in Section 27A-106 of the County Code; within an approved T-D-O Zone; or where there is no approved T-D-O Zone, then within a 0.25 mile of a Metro station. This act is in effect from October 1, 2013 through September 30, 2018.

The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. However, the lotting pattern proposed with this PPS is not compatible with the surrounding uses; therefore, staff is not in support of this application.

#### **Nonresidential**

The commercial portion of the subdivision is exempt from a review for schools because it is a nonresidential use.

10. **Fire and Rescue**—This PPS has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) of the Subdivision Regulations.

#### **Residential**

The response time standard established by Section 24-122.01(e) of the Subdivision Regulations is a maximum of seven minutes travel time from the first due station.

The proposed project is served by Upper Marlboro Fire/EMS Co. 845, which is located at 7710 Croom Road. The Deputy Fire Chief Dennis C. Wood, Emergency Services Command of the Prince George's County Fire/EMS Department, stated in writing that as of March 27, 2018, the project is within a seven-minute travel time from the first due station.

The Fire Chief, as of May 15, 2016, has outlined the adequacy of personnel and equipment as required by Section 24-122.01(e).

#### **Nonresidential**

The Prince George's County Fire/EMS Department indicates that a five-minute total response time is recognized as the national standard for fire/EMS response times. This 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.

The Deputy Fire Chief, Dennis C. Wood, Emergency Services Command of the Fire/EMS Department, stated in writing that, as of March 27, 2018, the subject project was determined to have a travel time under four minutes; therefore, an associated total response time under five minutes, from the closest station (Upper Marlboro Fire/EMS, Station 845), which is located at 7710 Croom Road. Applying the national standard, the subject property passes the adequacy test.

#### **Capital Improvement Program (CIP)**

The Prince George's County FY 2018–2023 approved CIP provides funding to complete a major renovation to the existing Upper Marlboro Fire/EMS facility constructed in 1970.

11. **Police Facilities**—The following evaluation is provided for impact on police services in accordance with Section 24-122.01(c) of the Subdivision Regulations.

#### **Residential**

The subject property is in Police District V, Clinton. The response time standards established by Section 24-122.01(e) is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The PPS was accepted for processing by the Planning Department on March 26, 2018. Based on the most recent available information provided by the Prince George's County Police Department as of December 2015, the police response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls are met.

#### **Nonresidential**

The proposed development is within the service area of Police District V, Clinton. There is 267,660 square feet of space in all the facilities used by the Police Department and the July 1, 2017 (U.S. Census Bureau) county population estimate is 912,756. Using the national standard of 141 square feet per 1,000 residents, it calculates to 128,698 square feet of space for police. The current amount of space, 267,660 square feet, is within the guideline.

12. **Water and Sewer**—Section 24-122.01(b)(1) states that the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for PPS or final plat approval.

The 2008 *Water and Sewer Plan* designated Lots 1 and 3 in water and sewer Category 3 and Parcels 47, 53, and 64 in water and sewer Category 4, Community System. The entire site is within Tier 1 and Tier 2 under the Sustainable Growth Act and will, therefore, be served by public systems. Category 3 must be obtained through the administrative amendment procedure for the entire property before the recordation of a final plat. A water line in Robert Crain Highway abuts the property and water and sewer lines in Croom Road abut the property.

13. **Use Conversion**—The total development included in this PPS is proposed for 76 single-family attached dwellings and 10,250 square feet of commercial, development in the R-R and C-S-C Zones respectively. If a substantial revision to the 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.
14. **Public Utility Easement (PUE)**—Section 24-122(a) of the Subdivision Regulations requires that, when utility easements are required by a public company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

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

The standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on public rights-of-way Croom Road to the northeast and US 301 to the northwest, the required PUEs are delineated on the PPS. Private streets are proposed which requires PUEs. Section 24-128(b)(12) of the Subdivision Regulations requires that 10-foot-wide PUEs be provided along one side of all private streets; the PPS meets this requirement. However, the use of private streets to serve the proposed subdivision is not permissible according to the Subdivision Regulations as discussed within this technical staff report.

15. **Historic**—The proposed project will have no impact on any designated Prince George’s County Historic Sites, Resources or Districts. The brick ranch house on Lot 1 was built in 1967. The residence on Lot 3 was constructed in 1996. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. Phase I archeology survey is not recommended on the subject property. This proposal will not impact any historic sites, historic resources or known archeological sites.
16. **Environmental**—The Environmental Planning Section previously reviewed the following applications and associated plans for the subject site:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
NRI-182-2017	NA	Planning Director	Approved	11/02/17	NA
NRI-182-2017-01	NA	Planning Director	Pending	Pending	NA
4-17039	TCP1-003-2018	Planning Board	Pending	Pending	Pending
DSP-18009	TCP2-XXX-XXXX (Not yet assigned)	Planning Board	Pre-application review	Pending	Pending

### **Grandfathering**

The site is not grandfathered with respect to the environmental regulations contained in Subtitle 24 (Subdivision) that came into effect on September 1, 2010 and is subject to the Subtitle 25 (2010 Woodland and Wildlife Habitat Conservation Ordinance (WCO)) and technical manual.

### **Site Description**

The subject property is located in the southeast quadrant of the intersection of US 301 (Robert Crain Highway) and Croom Road, and surrounds an existing commercial property recently developed as a CVS.

A review of the available information identified regulated environmental features such as areas of steep slopes, 100-year floodplain, streams, associated buffers, and PMA exist on-site. Nontidal wetlands and associated buffers were also identified on-site. The site is characterized by terrain sloping toward the west and south of the subject property and drains into Charles Branch watershed in the Patuxent River basin. The site is not located in a Stronghold Watershed or a Tier II Catchment or stream segment. The predominant soils found to occur according to the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Web Soil Survey (WSS), include the Collington-Wist-Urban Land Complex, Udorthents, Urban Land, and Widewater and Issues soils. According to available information no Marlboro clay or



Christiana complexes exist on-site. This site is not within a sensitive species protection review area based on a review of the SSPRA GIS layer prepared by the Heritage and Wildlife Service, Maryland Department of Natural Resources. According to PGAtlas, there is potential forest interior dwelling species (FIDS) habitat on-site. This site is not within an Aviation Policy Area associated with an Airport. The site shares frontage on Croom Road, which is a special roadway designated as a historic road and/or scenic road. The site abuts US 301, classified as a freeway, which is a source of significant traffic-generated noise, which may impact the proposed residential use of the site. The site is also crossed by a master-planned freeway right-of-way. According to the 2017 Countywide Green Infrastructure Plan (Green Infrastructure Plan), there are regulated and evaluation areas located on the overall site, but the site is not located in, or abutting, a special conservation area. The property is in a priority funding area.

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

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

#### **Countywide Green Infrastructure Plan (2017)**

The Green Infrastructure Plan was approved with the adoption of the *Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017). According to the Green Infrastructure Plan, the site contains one regulated area along the eastern boundary of the property, while much of the remaining site is a designated evaluation area.

The following policies and strategies in bold are applicable to the subject application. The text in **bold** is the text from the master 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.**

**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.**

A significant portion of the site is designated PMA. Proposed impacts to regulated area will be discussed in more detail in the Stormwater Management and Preservation of Regulated Environmental Features/Primary Management Area sections of this report. Charles Branch, which runs adjacent to the developing property, is a designated stream valley park, which links to the Patuxent River Park.

**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 project proposes to meet its woodland conservation requirement with 0.74 acre preservation, 0.89 acre reforestation and 1.15 acres of offsite woodland conservation. Approximately 5.68 acres of woodland in the floodplain will be preserved.

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

- 3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.**
  - a. Provide wildlife and water-based fauna with safe passage under or across roads, sidewalks, and trails as appropriate. Consider the use of arched or bottomless culverts or bridges when existing structures are replaced, or new roads are constructed.**

Environmental impacts due to vehicular transportation shown on the PPS and Type 1 tree conservation plan (TCP1) are discussed further within the Preservation of Regulated Environmental Features/Primary Management Area sections of this technical staff report for conformance with Subdivision requirements, and evaluation of impacts.

- 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.**

Environmental impacts related to trail connections for the Charles Branch Stream Valley Park will be evaluated after the location of the stream valley park trail is confirmed with DPR and potential impacts are located and quantified on the plans for review. Additional environmental impacts associated with construction of the stream valley park trail is deferred until DSP and Type 2 tree conservation plan (TCP2) if the trail is to be constructed by the applicant. If the trail will be constructed separately by DPR in the future, environmental impacts will be evaluated with the review of construction design for the project.

**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, because areas on-site are identified within the PMA that are proposed to for retention. These will be addressed at time of final plat. The areas of on-site woodland conservation will be required to be placed in Woodland and Wildlife Habitat Conservation Easements prior to the approval of the TCP2.

**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.**

An approved SWM Concept Plan, 57752-2017-0 and SWM Site Development Approval Letter was submitted as an amendment to the application package. The Site/Road Plan Review Division of DPIE will review the project for conformance with the current provisions of the County Code, that addresses the state regulations. Woodland conservation in riparian buffers is consider a priority location. Most of the woodland in the protected floodplain will be preserved.

**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.**

The TCP1 was reviewed in accordance with the woodland conservation priorities established in the state and local ordinance. Retention and planting of native species on-site is required by both the Environmental Technical Manual, and the 2010 *Prince George's County Landscape Manual* (Landscape Manual).

**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.**

Clearing of woodland is proposed with the subject application. Woodland conservation should be designed to minimize fragmentation and reinforce new forest edges. The retention of potential FIDS habitat and green infrastructure corridors is also strongly encouraged. Green space is encouraged in compact developments to serve multiple eco-services.

**POLICY 12: Provide adequate protection and screening from noise and vibration.**

- 12.2 Ensure new development is designed so that dwellings or other places where people sleep are located outside designated noise corridors. Alternatively, mitigation in the form of earthen berms, plant materials, fencing, or building construction methods and materials may be used.**

The unmitigated 65dBA Ldn noise contour is reflected on the TCP1. A Phase 2 Noise Study was submitted with this application from Phoenix Noise and Vibration, LLC, and existing traffic noise levels were measured and calculated with CadnaA software. Based on the location of the unmitigated 65 dBA Ldn noise contour, 20 of the proposed townhouse lots will be impacted by noise levels. These impacts can be mitigated through the use of enhanced building materials to mitigate noise to 45 dBA Ldn or less.

### **Area Master Plan Conformance**

The Subregion 6 Master Plan and SMA was approved on July 24, 2013 via Council Resolutions CR-82-2013 and CR-83-2013. It contains the following policies and strategies in the Environment chapter, the text in **bold** is from the master plan and the plain text provides comments on plan conformance.

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

### **Strategies**

1. **Protect priority areas that will meet multiple protection objectives such as those related to green infrastructure, the priority preservation area, and the Patuxent River Rural Legacy Program.**
2. **Protect primary corridors (Patuxent River, Charles Branch, Collington Branch, Piscataway Creek, Mattawoman Creek, and Swanson Creek) during the review of land development proposals to ensure the highest level of preservation and restoration possible, with limited impacts for essential development elements. Protect secondary corridors to restore and enhance environmental features, habitat, and important connections.**
3. **Preserve and connect habitat areas to the fullest extent possible during the land development process.**
4. **Preserve or restore regulated areas designated in the green infrastructure network through the development review process for new land development proposals.**
5. **Protect portions of the green infrastructure network outside the primary and secondary corridors to restore and enhance environmental features, habitat, and important connections.**
6. **Evaluate land development proposals in the vicinity of SCAs to ensure that the SCAs are not negatively impacted and that green infrastructure connections are either maintained or restored.**

The development site is not located in a special conservation area, but is located in a primary corridor, Charles Branch, and contains regulated areas and evaluation areas, as designated in the Green Infrastructure Plan.

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

**Strategies**

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

Wetlands and wetland buffers on-site will be protected to the fullest extent possible during local review of development projects, and by state and federal permitting authorities. The site is a new/re-development and will comply with the state environmental site design requirements in the design and review of SWM facilities for the site.

**Environmental Review**

As revisions are made to the plans submitted the revision boxes on each plan sheet shall be used to describe the changes, the date made, and by whom.

**Natural Resource Inventory**

A copy of the Natural Resource Inventory NRI-182-2017, approved by the Environmental Planning Section on November 2, 2017, was submitted with the current application. During the review process inconsistencies between the NRI and PPS were identified and will be reconciled by a pending revision to the NRI-182-2017-01.

According to the NRI, this site contains 15.36 acres of gross tract area, and 5.73 acres of 100-year floodplain, leaving a net tract area of 9.63 acres. Regulated environmental features including steep slopes, 100-year floodplain, streams, and associated buffers are delineated on-site as the PMA, consisting of 6.52 acres. Potential FIDS habitat exists on-site, linking the green infrastructure corridor along Charles Branch, east and west of the proposed development site with the Patuxent River.



### **Woodland Conservation**

This site is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. A Type 1 Tree Conservation Plan (TCP1-003-2018) was submitted with the subject application. The TCP1 worksheet shows 0.16 acre as previously dedicated; however, no documentation has been provided confirming land was dedicated prior to the filing of this application. Any land proposed to be dedicated as part of this application must be included in the net tract unless it is within the 100-year floodplain. The TCP1 worksheet shall be revised to remove the 0.16 acre of previously dedicated land or provide documentation that the land was dedicated prior to the filing of this application.

The site is split-zoned R-R and C-S-C and has a woodland conservation threshold of 19.70 percent of the net tract acre. According to the worksheet provided on the TCP1, the cumulative woodland conservation requirement based on the total proposed clearing of 4.02 acres of woodlands outside of the floodplain and 0.05 acre of woodlands inside of the floodplain for this project, is 2.87 acres. The TCP1 proposes to meet this requirement with 0.74 acre of on-site preservation, 0.89 acre of on-site afforestation/reforestation, and 1.15 acres of off-site woodland conservation.

Technical revisions to the TCP1 will result in changes to the amount of on-site woodland conservation that can be provided. The most significant revision is that woodland conservation shall not be credited within the master-planned right-of-way crossing the site. The TCP1 also requires numerous other technical revisions prior to approval, as recommend below:

### **Specimen Trees**

Section 25-122(b)(1)(G) requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone 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."

Effective October 1, 2009, the State Forest Conservation Act was amended to include a requirement for a variance if a specimen, champion, or historic tree is proposed to be removed. This state requirement was incorporated into the adopted County Code effective on September 1, 2010.

A Subtitle 25 Variance application and a statement of justification dated June 25, 2018, in support of a variance for the removal of five specimen trees located on-site was submitted with this application.

This application includes a request to remove five specimen trees. The five trees are marked as SP-1, SP-2, SP-34, SP-19, and SP-39, which are a 38-inch red maple, 34-inch tulip poplar, 30-inch tulip poplar, a 53-inch silver maple, and a 33-inch sycamore, respectively.

Trees SP-1 (38-inch DBH red maple) and SP-2 (34-inch DBH tulip poplar) were noted as in fair condition with significant dead limbs and failing branches, as well as old wounds and some cavities. These two trees are located in the northern portion of the site near Robert Crain Highway, just outside of the proposed limits of disturbance for an SWM facility. It is noted that tulip poplars are construction sensitive. Final condition scores were not provided for these trees,

both of which were described as in fair condition with dead limbs, failed branches, old wounds and cavities.

Tree SP-19, a 53-inch DBH silver maple, is located in the central portion of the site and is a triple-trunk maple which is proposed for removal to accommodate necessary grading near proposed Lot 77 and adjacent infrastructure. It has a final condition rating of 84.4 (good). It has a final condition score of 87.5. Silver maple is a softwood, short lived tree.

Tree SP-34, a 53-inch DBH tulip poplar, is proposed for removal to provide necessary grading to tie-in the proposed development to the steep slopes existing on-site. Tulip poplars are known to be very sensitive to construction within the root zone because of their tuberous roots.

Tree SP-39 is a 49.5-inch DBH sycamore is located near the northern portion of the site and proposed for removal to accommodate the proposed Lots 50 and 51 and associated infrastructure for the overall development. It has a final condition rating score of 87.5.

All specimen trees within the project were identified on the approved Natural Resource Inventory Plan and were revised per a follow-up field visit in December 2017. These revisions are reflected on the TCP1 submitted with the PPS for this project.

#### **Statement of Justification Request**

A variance from Section 25-122(b)(1)(G) is requested for the clearing of the five specimen trees on-site. The Subtitle Variance Application form requires an SOJ of how the findings are being met.

#### **Section 25-119(d)(1)**

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

The grading cannot be minimized further to avoid the removal of trees SP-1, SP-2, SP-19, SP-34 and SP-39. Retaining walls are used throughout the site to minimize the extents of grading activities and avoid further impacts to the environmental features including the 100-year floodplain, PMA, and wetland and stream buffers on-site. The overall development has been designed to avoid these environmental constraints.

More than 30 percent of the critical root zone of trees SP-1 and SP-2 will be impacted by the proposed stormwater pond, which cannot be shifted due to the necessary parking area to the east.

Tree SP-19 is located in the central portion of the site and is a triple-trunk maple which is proposed for removal in order to accommodate appropriate grading near proposed Lot 7 and adjacent infrastructure.

Tree SP-34 is located along the back of proposed Lot 20 and appropriate grading is necessary to support the residences in this location, as well as provide access around these lots.

SP-39 is located where Lots 50 and 51 are proposed and losing these lots is not practicable.

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

Approval of this variance request to remove specimen trees is in line and consistent with Prince George's County's expectations with regard to site development.

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

The granting of this variance does not constitute a special privilege as the strict requirements for site development must be adhered to for this development regardless of the presence of specimen trees.

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

The applicant has not created the conditions or circumstances leading to the necessity to remove the three specimen trees on-site. The site must be appropriately graded to support the proposed infrastructure and accommodate surface runoff.

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

Neighboring properties to the south are undevelopable as it contains Charles Branch and its associated floodplain. The request does not arise from a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.

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

Granting the variance to remove five specimen trees will not directly affect water quality because the site will have to follow strict SWM requirement and sediment control. Specific requirements regarding SWM for the site will be further reviewed DPIE. Granting of the variance will not affect water quality. The overall development proposes SWM that will provide both water quality and quantity control. Further, no permanent impacts to wetlands or other waters including Charles Branch are proposed. Impacts to environmental features have been minimized, to the extent possible, on-site.

Staff finds that the required findings of Section 25-119(d) have been adequately addressed by the applicant. However, because staff does not find that the proposed subdivision conforms to the required findings of conformance with the master plan and the development of private streets and alleys to serve the proposed development is not permitted, staff is compelled to recommend disapproval of the impacts associated with the proposed development and consequently disapproval of the Variance to Section 25-122(b)(1)(G) for the removal of Specimen Trees 1, 2, 19, 34, and 39.

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

Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property or 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. Stormwater management outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code.

The site contains regulated environmental features. According to the TCP1, impacts to the PMA/stream buffer and the 100-year floodplain are proposed for SWM. A statement of justification has been received for the proposed impacts to the PMA, inclusive of the stream buffer and floodplain.

**Statement of Justification**

This application includes a request for approval of permanent impacts to regulated environmental features totaling 6,140 square feet (0.14 acre) of PMA and temporary impacts to 31 linear feet of ephemeral stream channel (226 square feet). No impacts to wetlands or wetland buffers are proposed.

The site contains a total of approximately 6.53 acres of PMA. The PMA comprises 638 linear feet of regulated streams and associated 75-foot-wide stream buffers, as well as wetlands, wetland buffers, floodplain, and areas of steep slopes. The PMA is generally located on the southern half of the property. The existing PMA is 42.5 percent of the total site area. The site contains approximately 35,387 square feet (0.81 acre) of wetlands and approximately 78,309 square feet (1.80 acres) of wetland buffers.

The majority of the PMA defined on-site is associated with the floodplain areas of Charles Branch, which extends from west to east along the southern boundary of the site. Additional PMA encompasses the stream buffers on-site where they extend beyond the floodplain. The work proposed for this development has been placed outside of the PMA (floodplain) to avoid impacts to the extent possible, with the exception of stormwater outfall and pipe installation. The PMA associated with this site can be found on the Natural Resources Inventory (NRI-182-2017) which was prepared by Maser Consulting.

**Specific description of the proposed impacts and justification of avoidance and**

**minimization:** Impacts 1 through 6 are associated with this PPS and are described below.

**Impact 1**, includes 42 square feet of permanent impacts to the PMA for the installation of a stormwater outfall.

- a. **Avoidance Justification**—The installation of appropriate stormwater management including outfalls is an essential part of the project. The PMA in this impact location is based on the floodplain boundary and elevation in this low area, and the impact to the PMA area is almost negligible. The outfall has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for the outfall has been minimized to the extent possible allow for installation.

**Impact 2**, includes 334 square feet of permanent impact to the PMA to allow for construction access and grading.

- a. **Avoidance Justification**—The proposed grading is necessary to support the proposed houses located outside of the PMA. The houses and supportive grading cannot be shifted due to the other environmental and infrastructure constraints on-site.
- b. **Minimization Justification**—The impact area has been minimized to the amount practicable. The limits of disturbance cannot be minimized any further.

**Impact 3**, includes 2,653 square feet of permanent impact to the PMA for the installation of a stormwater outfall, as well as temporary impacts to 31 linear feet (226 square feet) of ephemeral stream to allow construction access for the outfall.

- a. **Avoidance Justification**—The installation of appropriate stormwater management including outfalls is an essential part of the project. The outfall has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for thee outfall has been minimized to the extent possible allow for installation with no excess area. The limits of disturbance have been minimized to the minimum width that will allow for construction access and sewer installation. The outfall must be placed within the PMA based on the topography of the site.

**Impact 4**, includes 2,136 square feet of permanent impacts to the PMA for the installation of a stormwater outfall.

- a. **Avoidance Justification**—The installation of appropriate stormwater management including outfalls is an essential part of the project. The outfall has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for the outfall has been minimized to the extent possible allow for installation with no excess area. The limits of disturbance have been minimized to the minimum width h that will allow for construction access and sewer installation. The outfall must be placed within the PMA based on the topography of the site.

**Impact 5**, proposes permanent impacts to 799 square feet (0.02 acre) of PMA and stream buffer area for the connection of the storm sewer to existing infrastructure along Croom Road.

- a. **Avoidance Justification**—The area of the limits of disturbance and the proposed storm sewer installation have been minimized to the extent possible to properly construction the sewer.
- b. **Minimization Justification**—The clearing is the minimum necessary to afford enough area to properly install the storm sewer. The sewer must be placed within the PMA due to the proposed connection of the sewer.

**Impact 6**, includes 176 square feet of impact to the PMA for the installation of a stormwater outfall.

- a. **Avoidance Justification**—The installation of appropriate stormwater management including outfalls is an essential part of the project. The outfall has been placed in the most appropriate place based on topography on-site.
- b. **Minimization Justification**—The impact area for the outfall has been minimized to the extent possible allow for installation with no excess area. The limits of disturbance have been minimized to the minimum width that will allow for construction access and sewer installation. The outfall must be placed within the PMA based on the topography of the site.

Based on the level of design information currently available, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of disturbance shown on the impact exhibits and the tree conservation plan submitted for review. Staff would find PMA impacts 1, 2, 3, 4 5 and 6, supportable, with conditions, based on the development proposal. However, this application is not recommended for approval and consequently the TCP1 and environmental impacts are not recommended for approval.

### **Soils**

The predominant soils found to occur, according to the USDA NRCS WSS, include the Collington-Wist-Urban Land Complex, Udorthents, Urban Land, and Widewater and Issues soils. According to available information, no Marlboro clay or Christiana complexes exist on-site. This information is provided for the applicant's benefit. No further action is needed as it relates to this PPS. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

- 17. **Urban Design**—The application is subject to the requirements of Sections 27-441(b) and 27-461(b), Uses Permitted, of the Zoning Ordinance. The proposed commercial use is permitted by-right in the C-S-C Zone and the townhouses are permitted in the R-R and C-S-C Zones, under certain circumstances, with the approval of Council Bill CB-122-2017.

Footnote 120 of Section 27-441(b) states that development of townhouses in the R-R Zone requires a DSP that will establish bulk regulations, such as net lot area, lot coverage, frontage, setbacks, density, landscaping, and other requirements for such development. In addition, it is noted that the DSP must show commercial development and include architectural review to ensure high-quality design and construction materials compatible with the surrounding area.

Footnote 68 of Section 27-461(b) includes a similar requirement for development of townhouses within the C-S-C Zone.

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

The proposal is subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Specifically, the proposal is subject to Section 4.1, Residential Requirements; Section 4.2, Requirements for Landscape Strips Along Streets; 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. Conformance to these requirements will be evaluated at the time of DSP review.

**Tree Canopy Coverage Ordinance**

The proposed development is subject to the Tree Canopy Coverage Ordinance because it will require a building and/or grading permit that proposes more than 5,000 square feet of disturbance. This ordinance requires 10 percent tree canopy coverage for properties zoned C-S-C and 15 percent for properties zoned R-R. This requirement can be met either through woodland conservation, proposed on-site landscaping, or a combination, and will be evaluated at the time of DSP review.

**Recreational Facilities**

The applicant is proposing private on-site recreation facilities to meet the mandatory park dedication requirements of the Subdivision Regulations. Staff is concerned that sufficient usable open space has not been provided for the location of such facilities in the proposed plan. Bulk regulations for the development, including lot size and density, is to be determined with the DSP, which may change the requirement and open space areas. The conveyance of parkland is appropriate for meeting the dedication requirements of the site, as discussed in the Parks finding of this technical staff report.

Urban Design issues related to bulk regulations, such as lot size and density, are required to be reviewed with the DSP, which may require revisions to the proposed lotting pattern. However, staff is recommending disapproval of the application as discussed in the forgoing findings.

**RECOMMENDATION**

DISAPPROVAL, due to nonconformance with Sections 24-121(a)(5) and 24-128 of the Subdivision Regulations.

**STAFF RECOMMENDS:**

- Disapproval of Preliminary Plan of Subdivision 4-17039
- Disapproval of Type 1 Tree Conservation Plan TCP1-003-2018
- Disapproval of a Variation from Section 24-121(a)(3)
- Disapproval of a Variance to Section 25-122(b)(1)(G)