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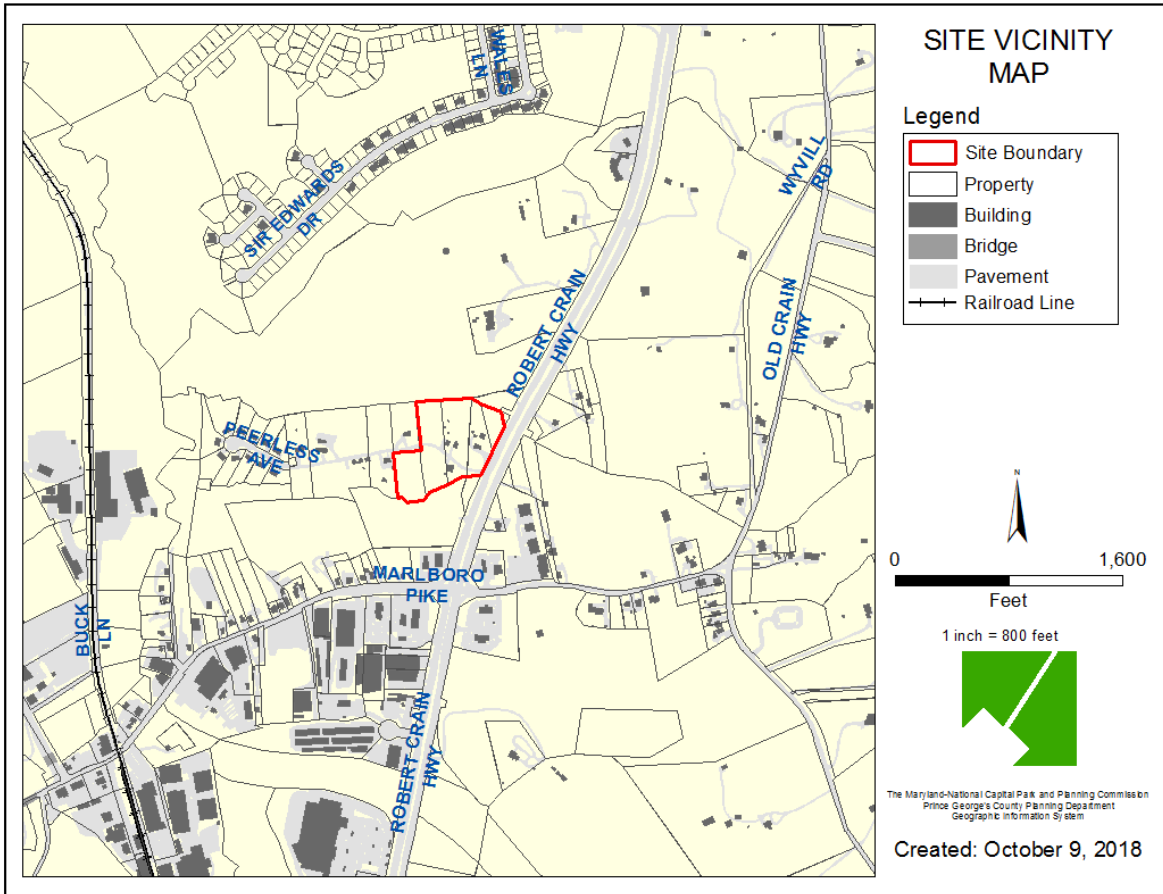
Preliminary Plan of Subdivision

4-18004

Application	General Data	
Project Name: Townes At Peerless Location: On the west side of US 301 (Robert Crain Highway), 1,000 feet north of its intersection with MD 725 (Marlboro Pike). Applicant/Address: Peerless Avenue Associates, LLC 1000 University Avenue, Suite 500 Rochester, NY 14607 Property Owner(s): Irene Butler 3437 Halloway North Upper Marlboro, MD 20772 JLH Properties, VIII, LLC 13204 Duley Station Road Upper Marlboro, MD 20773 Wedge Catherine A., et al. 15506 Peerless Avenue Upper Marlboro, MD 20772	Planning Board Hearing Date:	11/08/18
	Staff Report Date:	10/24/18
	Date Accepted:	08/14/18
	Planning Board Action Limit:	11/09/18
	Mandatory Action Timeframe:	70 days
	Plan Acreage:	7.64
	Zone:	M-X-T
	Gross Floor Area: (commercial/retail):	3,000 sq. ft.
	Dwelling Units	62
	Parcels/Outlots:	1/1
	Planning Area:	79
	Council District:	06
	Election District	03
	Municipality:	N/A
	200-Scale Base Map:	206SE13

Purpose of Application	Notice Dates	
The applicant is requesting one outlot and one parcel for the development of 62 (total) multifamily, two-family and three-family attached units, and 3,000 square feet of commercial/retail development. Variance to Section 25-122(b)(1)(G)	Informational Mailing	02/28/18
	Acceptance Mailing:	07/26/18
	Sign Posting Deadline:	10/08/18

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



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-18004
Townes at Peerless
Type 1 Tree Conservation Plan TCP1-004-2018-01

OVERVIEW

The subject property is located on the west side of US 301 (Robert Crain Highway), approximately 1,000 feet north of the intersection with MD 725 (Marlboro Pike). This preliminary plan of subdivision (PPS) includes the following legal lots recorded in Prince George's County Land Records; the second part of part of Lots 5 and 6 in Liber 4262 folio 610, first and second part of Lots 7 and 8 in Liber 32208 folio 372, part of Lot 9 in Liber 960 folio 283, and part of Lot 10 in Liber 960 folio 283. The site is developed with four structures; two on the first part of Lots 7 and 8, one on part of Lot 9, and one on part of Lot 10, all of which are to be razed. The application proposes one outlot and one parcel for a mixed-use development consisting of 3,000 square feet of commercial/retail space and 62 (total) two-family and three-family attached units and multifamily dwelling units. The property is subject to the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (Subregion 6 Master Plan and SMA).

Peerless Avenue, a substandard County maintained roadway, exists through subject site. A 70-foot-wide right-of-way is required for the length of Peerless Avenue that leads to the commercial portion of the site, the remainder of the roadway to the west will have a 60-foot-wide right-of-way. This proposed relocation and widening of Peerless Avenue will separate the property into two separate land areas, one north of Peerless Avenue and one south of Peerless Avenue. An outlot to the south of Peerless Avenue is to be utilized for stormwater management. To the north is the proposed development parcel for retail and residential.

The applicant filed a Variance to Section 25-122(b)(1)(G) for the removal of nine specimen trees. Staff recommends approval of the variance request, as discussed further.

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

SETTING

The property is located on Tax Map 93 in Grids B-3 and B-4; located in Planning Area 79; and is zoned M-X-T. The subject property is bounded to the east by US 301 with property beyond zoned Residential-Agricultural (R-A), which is vacant. Neighboring properties to the south, west, and north, are zoned M-X-T. The property to the south is vacant and the properties to the west and north are developed with single-family residential.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone	M-X-T	M-X-T
Use(s)	Residential	Residential/Commercial
Acreage	7.64	7.64
Gross Floor Area	0	3,000 sq. ft.
Dwelling Units	4 (to be razed)	62
Parcels	0	1
Lots	5	0
Outlots	0	1
Variance	No	Yes 25-122(b)(1)(G)
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on August 24, 2018.

2. **Previous Approvals**—A Conceptual Site Plan (CSP-17004) was approved by the District Council on September 24, 2018, for 62 two-family, three-family, and multifamily units, as well as approximately 3,000 square feet of commercial/retail space, subject to five conditions for the subject property. The conditions that are relevant to the review of this CSP are as follows:

2. **Total development within the subject property shall be limited to uses which generate no more than 55 (15 in; 40 out) AM peak-hour trips and 61 (37 in; 23 out) PM peak-hour trips, in consideration of the approved trip rates. Any development generating an impact greater than that identified herein above shall require a revision to the conceptual site plan, with a new determination of the adequacy of transportation facilities.**

This development will generate no more than 55 AM and 61 PM peak-hour trips. The transportation analysis conducted with this PPS, in accordance with Subtitle 24, results in a recommendation for a trip cap with this application that is identical to the trip cap for the CSP.

3. **At the time of preliminary plan of subdivision (PPS), the applicant shall:**
 - a. **Provide Phase I (Identification) archeological investigations, according to the Prince George's County Planning Board's Guidelines for Archeological Review (May 2005), to determine if any cultural resources are present. The areas within the developing property that have not been extensively disturbed should be surveyed for archeological sites. The applicant shall submit a Phase I research plan for approval by the Historic Preservation Section prior to commencing Phase I work. Evidence of M-NCPPC staff**

concurrence with the final Phase I report and recommendations is requested prior to approval of the PPS.

A Phase I archeological survey was submitted as required and is discussed further.

- b. Show the appropriate dedication of right-of-way along the property's frontage on US 301 (Robert Crain Highway) and Peerless Avenue.**

No additional right-of-way dedication is required along US 301, additional right-of-way along Peerless Avenue is required, as discussed further.

- c. Provide the pro rata share cost towards the Prince George's County Capital Improvement Project-funded improvements along US 301 (Robert Crain Highway).**

The pro-rata share cost is discussed further in the Transportation section.

- d. Submit a geotechnical report for review and approval by the Prince George's County Department of Permitting, Inspections, and Enforcement, to confirm the elevation of the Marlboro clay and determine the slope stability factor.**

A geotechnical report was submitted in conformance with this condition and is discussed further.

- e. Revise the Type 1 tree conservation plan (TCP1) to include the boundary of the Marlboro clay, as determined by an approved evaluation by the Prince George's County Department of Permitting, Inspections, and Enforcement.**

A revised Type 1 tree conservation plan (TCP1) was submitted in conformance with this condition.

- f. Provide a specimen tree variance application and statement of justification for the removal of specimen trees.**

A specimen tree variance request and a statement of justification (SOJ) dated March 8, 2018 from David Bickle for the removal of specimen trees was submitted in conformance with this condition.

- g. Submit a statement of justification for the necessary primary management area impacts that shall address all proposed impacts to regulated environmental features.**

A statement of justification for impacts to regulated environmental features was accepted on August 14, 2018 in conformance with this condition.

- h. Provide a Phase I noise study.**

A Phase I noise study was submitted in conformance with this condition. The proposed multifamily building will have an impact of up to 73 dBA Ldn. Noise

mitigation, through modifications to the building shell, is recommended to mitigate interior noise levels to the state standard of 45dBA Ldn or less. The applicant has indicated that they will be providing private indoor on-site recreational facilities to fulfill the mandatory dedication of parkland requirement (Section 24-134). However, staff is recommending that recreational facilities include an outdoor recreational component that may include a loop trail system and or community gardens. In general, it would be impractical to provide noise mitigation to an entire trail system on this site and would not be recommended. Stationary recreational areas, however, should be mitigated to the state standard of 65 dBA Ldn or less. The location of outdoor activity areas will be determined at the time of Detailed Site Plan, when more details are provided for grading and stormwater management.

3. **Community Planning**—*Plan Prince George's 2035 Approved General Plan* (Plan 2035) locates the subject site in the Established Communities. The vision for the Established Communities is to accommodate context-sensitive infill and low- to medium-density development.

The 2013 Subregion 6 Master Plan and SMA, which retained the subject property in the M-X-T Zone, recommends mixed-use future land use on the subject property. The property is identified as “Development Bay 3” in the Living Areas and Community Character Chapter, which recommends the following policies and strategies:

Policy: Promote high-quality development and redevelopment around the Town of Upper Marlboro at the intersection of US 301 and MD 725 (page 205)

Strategy 2: Incorporate a mix of development opportunities including different types of housing that complement and support the Town of Upper Marlboro in the M-X-T zone. (page 206)

Strategy 5: Respect the extensive system of floodplain “fingers” by preserving natural drainage corridors and limiting development to upper level plateau areas. (page 206)

Strategy 9: Consider county relocation assistance for residents of Peerless Avenue as this area develops. (page 206)

Map 25 shows the development framework for the area, which includes five development bays, or areas. “These bays represent the most appropriate areas for development.... outside of known environmentally sensitive areas and floodplains”. (page 201)

Development Bay 3: This bay is another high-land peninsula bordered to the north and south by significant drainage corridors. “Its proximity to an existing commercial development site (to the west) and US 301 suggests that a higher density, alternative type of residential development may be appropriate such as zero lot line residential. An average lot size of approximately 6,800 square feet is envisioned....” (page 203)

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, the proposed subdivision conforms to the land use recommendation of the Master Plan.

4. **Stormwater Management**—A Stormwater Management (SWM) Conceptual Plan was submitted with the subject application but has not yet been approved. The SWM concept plan shows the use of ESD elements to address water quality requirements.

An approved stormwater management concept plan is required to be designed in conformance with any approved watershed management plan, pursuant to Subtitle 32 Water Resources and Protection, Division 3 Stormwater Management, Section 172 Watershed Management Planning.

Prior to signature approval, the applicant shall submit an approved stormwater management concept plan or indication that an application for such approval has been filed with the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) in accordance with Section 24-120(a)(8) of the Subdivision Regulations.

5. **Parks and Recreation**—The PPS has been reviewed for conformance with the requirements of the Plan 2035, Subregion 6 Master Plan and SMA, the Land Preservation, Parks and Recreation Plan (LPPRP) for Prince George's County, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space* and the Subdivision Regulations as they pertain to public parks and recreational facilities and are applicable to the review of a PPS.

The applicant's PPS proposes 62 multifamily units and 3,000 square feet of commercial space. Using current occupancy statistics for multifamily dwelling units for this planning area, the proposed development will result in a population of approximately 136 new residents to the community.

Per Section 24-134(a)(1) of the Prince George's County Zoning Ordinance, this PPS is subject to 1.15 acres of mandatory dedication of parkland. The information provided by the applicant indicates that this mandatory dedication requirement will be met by providing private recreational facilities on-site. Private recreational facilities may be approved by the Planning Board provided that the facilities will be superior, or equivalent, to those that would have been provided under the provisions of mandatory dedication. Further, the proposed facilities shall be properly developed and maintained to the benefit of future residents through covenants, and a Recreational Facilities Agreement (RFA), with this instrument being legally binding upon the sub-divider and their heirs, successors and assignees.

Staff has determined that private recreational facilities are appropriate for this project, given the proposed use and size of the development. The final list of recreation amenities will be determined at the time of Detailed Site Plan (DSP). The facilities should include outdoor activity areas to serve the residents. The conceptual site layout reflected limited outdoor areas for the residents and included a sidewalk around the parking lot. The site does contain environmental areas that may be opportunities for passive walking trails. The Environmental Planning Section has evaluated the concept plan and has determined that a small loop trail could be accommodated, extending around the rear of northern buildings, that would follow the woodland edge. At the time of DSP, a further analysis will occur and a determination if a loop trail or other outdoor activity areas, including community gardens, is appropriate.

6. **Trails**—The PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the area master plan in order 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, 2013."

Master Plan of Transportation Compliance

No master plan trail/bikeway issues impact the application; however, sidewalks are appropriate for the subject site. The Complete Streets element of the MPOT reinforces the need for these recommendations and includes the following policies regarding sidewalk construction and the accommodation of pedestrians. Policies 1 and 2 call for the construction of sidewalks along both sides of new road construction.

While this is a small parcel, it does provide some opportunities for the construction of recreational trails that would benefit future residents. The applicant should consider the following suggestions:

1. Providing a sidewalk along the back of two- and three-story residential buildings on the northern edge of the property;
2. A sidewalk or trail along the storm water management pond on the southern edge of the property;
3. A wide sidewalk along the north side the applicant's frontage of Peerless Avenue that could connect to the Collington Branch Trail system.

Sidewalks are reflected along both sides of all internal roads and the parking lot on the submitted PPS, consistent with these policies. Additional sidewalk links or internal trails may be considered at the time of DSP.

7. **Transportation**—The PPS includes a mixed-use development consisting of 62 dwelling units, and 3,000 square feet of retail. Based on trip rates from the “*Guidelines*” as well as the *Trip Generation Manual*, (Institute of Transportation Engineers), this development will be adding 55 (15-in; 40-out) AM peak-hour trips and 61 (38-in; 23-out) PM peak-hour trips.

The traffic generated by the proposed PPS would impact the following intersections:

- US 301 & Marlboro Pike (MD 725)
- US 301 & Village Drive
- US 301 & Peerless Avenue

The subject property is located within the Transportation Service Area (TSA) 2, as defined in the 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 critical lane volume (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. Once the CLV exceeds 1,150 for either type of intersection, 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.

All of the intersections deemed critical, when analyzed with the total future traffic as developed using the “*Guidelines*,” were found to be operating at or better than the policy service level. These levels of service findings are based on a \$24 million dollar, CIP-funded improvements along US 301. One of the provisions in the CIP project is that the funding includes developer contribution. This development’s share of the cost was computed as \$130,328.54 (1999 dollars). That cost is based on a per dwelling unit contribution of \$1,685.28 per DU, \$104,487.54/62 for the residential portion and \$8.61 per square foot, \$25,841.00/3,000 for the commercial phase. The detailed analysis is outlined below.

This application is supported by a traffic study dated August 21, 2018. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by staff of the Transportation Planning Section, consistent with the “Transportation Review Guidelines, Part 1, 2012” (*Guidelines*). The table below shows the intersections deemed to be critical, as well as the levels of service representing existing conditions:

EXISTING CONDITIONS		
Intersection	AM	PM
	LOS/CLV	LOS/CLV
US 301 & Marlboro Pike (MD 725)	D/1,358	D/1,366
US 301 & Village Drive	C/1,176	D/1,340
US 301 & Peerless Avenue (site access, right-in, right-out)	0.0 seconds	18.7 seconds

The traffic study identified three-background developments whose impact would affect some or all of the study intersections. In addition, a growth of 1.3 percent over six years was also applied to the regional traffic volumes along US 301. A second analysis was done to evaluate the impact of the background developments. The analysis revealed the following results:

BACKGROUND CONDITIONS – with CIP funded improvements		
Intersection	AM	PM
	LOS/CLV	LOS/CLV
US 301 & Marlboro Pike (MD 725)	C/1,187	C/1,209
US 301 & Village Drive	A/878	B/1,143
US 301 & Peerless Avenue (site access, right-in, right-out)	0.0 seconds	21.0 seconds

Using the trip rates from the Guidelines as well as the *Trip Generation Manual*, (Institute of Transportation Engineers), the study has indicated that the subject application represents the following trip generation:

		AM Peak			PM Peak		
		In	Out	Total	In	Out	Total
Dwelling Units	62 Units	9	35	44	32	17	49
Commercial/Retail (ITE)	3,000 sq. ft.	17	15	32	16	17	33
<i>Less 65% pass-by</i>		<i>-11</i>	<i>-10</i>	<i>-21</i>	<i>-10</i>	<i>-11</i>	<i>-21</i>
Total new trips		15	40	55	38	23	61

The table above indicates that the proposed development will be adding 55 (15-in; 40-out) AM peak-hour trips and 61 (38-in; 23-out) PM peak-hour trips. A third analysis depicting total traffic conditions was done, yielding the following results:

TOTAL CONDITIONS – with CIP funded improvements		
Intersection	AM	PM
	LOS/CLV	LOS/CLV
US 301 & Marlboro Pike (MD 725)	C/1,194	C/1,213
US 301 & Village Drive	A/888	B/1,147
US 301 & Peerless Avenue (channelized right-in, right-out)	No delays	

The results shown above indicate that with the inclusion of the Capital Improvement Program (CIP)-funded improvements, the study intersections will operate at satisfactory levels of service. The TIS also concluded that the applicant will contribute its fair share of the CIP-funded improvements, on which some of the previous were based.

Having reviewed the traffic study, staff concurs with its conclusions. In addition to staff, the traffic study was also reviewed by the State Highway Administration (SHA), the Department of Permitting, Inspections and Enforcement (DPIE), as well as the Department of Public Works and Transportation (DPW&T). In a memorandum from DPW&T to staff (Mazzara to Masog) dated September 11, 2018, the following issues were raised:

- The applicant should provide stopping and intersection sight distance analyses at both entrances to the site.
- The applicant should be conditioned to contribute to the CIP fund as discussed previously.

Staff concurs with both of these comments. Staff also received a memorandum dated September 14, 2018 (Giles to Turnquest) from DPIE. However, most of the concerns expressed by DPIE pertained to on-site design parameters that are generally related to Marlboro clay and are addressed further in this report. The County did state that the relocated Peerless Avenue will require a 70-foot-wide right-of-way (ROW) for access to the commercial use. A 70-foot-wide right-of-way accessing the commercial portion of the site is shown on the submitted plans, which transitions to a 60-foot-wide right-of-way through the residential portion of the site to the west. The transition design shall be in accordance with the specifications provided by DPIE via electronic mail correspondence dated October 18, 2018 (Abdullah to Burton), which is included in the back-up of this technical staff report and incorporated by reference herein. As of this writing, staff has not received any comments based on the review of the traffic study from the State Highway Administration (SHA).

The traffic study identified three critical intersections along US 301, which were found to be operating adequately under total traffic conditions based on the implementation of the CIP project. This finding was predicated on the applicant's reliance on developer-funded improvements along US 301 as outlined in the County's approved capital improvement program (CIP-FD669161) for FY 2017–2022. To that end, the applicant's traffic consultant has provided staff with an October 7, 2018 memorandum (White to Burton) in which the applicant's pro-rata cost share was evaluated. The analysis considered the limited scope of the traffic impact study (TIS) as well as the proposed development's limited impact on the US 301 corridor. The conclusion was that the fair share cost would be \$130,328.54 for the proposed development. The applicant's methodology was based on the following assumptions:

- Length of US 301 in scoped study area = 1.6 miles
- Length of US 301 in CIP covered area = 5.8 miles (MD 214 to MD 725)
- Cost of CIP = \$24,000,000 (Based on expansion to 6 through lanes)
- Proportional cost of CIP within TIS scope = $(1.6/5.8 \times \$24m) = \$6,620,689.66$
- Average (AM+PM) reserve capacity created by CIP improvements – 1270 CLV
- Average reserve capacity used by the Peerless development – 25 (approximately 1.97 percent)
- Proportion of cost CIP improvements to Peerless = 1.968 percent $\times \$6,620,689.66 = \$130,328.54$

In evaluating the applicant's analysis, staff concurs with its conclusion. Approximately 80 percent of the site trips will be generated by the residential component, while the commercial portion will generate the remaining 20 percent. Staff further concurs with the TIS that the overall cost of \$130,328.54 should be apportioned as \$104,487.54 towards the residential portion of the development, and \$25,841.00 for the commercial phase.

Master Plan Roads

The property is located in an area where the development policies are governed by the 2013 Approved Subregion 6 Master Plan and SMA, as well as the 2009 MPOT. The subject property currently fronts on US 301 (Robert Crain Highway), a four-lane arterial within a 150-foot-wide right-of-way. One of the recommendations from the master plan is the construction of a freeway (F-10) approximately 400 feet to the east of the existing US 301 right-of-way. When that construction occurs in the future, the existing US 301, which abuts the subject site to the east, will be converted into a service road (A-61) providing local vehicular access. According to the department's PGAtlas GIS database, some encroachment of the planned A-61 expansion will affect the site's frontage along US 301. However, based on an electronic mail (September 24, 2018) from SHA to staff (Woodroffe to Hancock), SHA wants to maintain the original alignment for A-61 which was based on the recommendation from SHA's 1999 *US 301 Access Control Study from MD 5 to US 50*. Based on this alignment, all of the expansion of A-61 will be achieved within the existing right-of-way of US 301. Consequently, no additional right-of-way dedication along US 301 is recommended with this application.

All other aspects of the site regarding access and layout are deemed to be acceptable at this time. Further review of the on-site circulation to avoid conflicts between the pedestrian and vehicular

traffic serving the commercial and residential uses will be evaluated at the time of detailed site plan review

The commercial and residential uses of the proposed development are abutting. A visual separation of the commercial and residential uses should be considered so that customers to the commercial portion of the site do not use the residential area as a thoroughfare, which may result in conflicts that should be address at the time of DSP.

Based on the preceding findings, adequate transportation facilities will exist to serve the proposed subdivision, as required in accordance with Section 24-124 of the Subdivision Regulations, if the application as approved with the 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 the *Adequate Public Facilities Regulations for Schools* (Council Resolutions CR-23-2001 and CR-38-2002), and it was determined that a school facilities surcharge in the amount of \$12,000 per dwelling unit, which may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes, as set forth in a memorandum from the Special Projects Section dated August 22,2018 (Mangalvedhe to Turnquest), provided in the back-up of this technical staff report and incorporated by reference herein.
9. **Public Facilities**—In accordance with Section 24-122.01, this PPS has been reviewed for adequacy of water and sewerage, police facilities, and fire and rescue facilities, and is found to be adequate to serve the subject site as outlined in a memorandum from the Special Projects Section dated August 22, 2018 (Mangalvedhe to Turnquest).
10. **Use Conversion**—The total development included in this PPS is 3,000 square feet of commercial development and 62 total dwelling units which include two-family, three-family, and multifamily dwelling units in the M-X-T Zone. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, as set forth in the resolution of approval and reflected on the PPS plan, that revision of the mix of uses shall require approval of a new PPS prior to approval of any building permits.
11. **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 public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The site contains no private streets, only driveways into the parking lot to serve the dwellings. The site has frontage along US 301 and along the proposed public right-of-way of Peerless Avenue. The PPS correctly delineates a 10-foot-wide PUE along the public rights-of-way.

12. **Historic**—Tax records and aerial photographs indicate that the structures on the subject property were constructed from the early to mid-nineteenth century. This small African American community began to establish itself at the intersection of Marlboro Pike and the Marlboro-Queen Anne Road shortly after the end of the Civil War. Some of the families still living in the community or those formerly living in the buildings on the subject property may have been

descendants of these early settlers. There are four structures and associated outbuildings on the subject property.

A Phase I archeological survey was conducted on the subject property in April 2018. Approximately 7.64 acres of fallow field and three dwelling lots were investigated with a shovel test pit (STP) survey. A total of 53 STPs were excavated, with 45 containing cultural material, primarily from the last third of the twentieth century. Two of the STPs contained early historic materials, including a small blue shell-edged pearlware ceramic and a small lead-glazed earthenware sherd. No archeological sites were delineated in the survey and no further work was recommended.

The Phase I archeological survey did not identify any significant archeological resources. Some eighteenth and nineteenth century artifacts were found mixed in with twentieth century material, indicating that there was some recent disturbance across the subject property. No further archeological investigations are recommended.

This proposal will not impact any known Prince George's County historic sites, historic resources, or archeological resources.

13. **Environmental**—The subject application includes a Type 1 Tree Conservation Plan (TCP1) which has been reviewed for conformance as required pursuant to Subtitle 25.

Background

Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
NRI-016-2018	N/A	Staff	Approved	3/07/2018	N/A
CSP-17004	TCP1-004-2018	Planning Board	Approved	6/14/2018	18-49
4-18004	TCP1-004-2018-01	Planning Board	Pending	Pending	Pending

Grandfathering

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

Environmental Review

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

Natural Resource Inventory Plan/Existing Features

A Natural Resource Inventory, NRI-016-2018, was approved on March 7, 2018, and provided with this application. The TCP1 and the PPS show all the required information correctly in conformance with the NRI. No revisions are required for conformance to the NRI.

Woodland Conservation

This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. A Type 1 Tree Conservation Plan (TCP1-004-2018-01) was submitted with the PPS.

Based on the TCP1 submitted with this application, the site contains 3.57 acres of woodland and has a woodland conservation threshold of 1.14 acres, or 15 percent based on the M-X-T zoning of the property. The Woodland Conservation Worksheet proposes the removal of 1.09 acres on the net tract area for a woodland conservation requirement of 1.41 acres. The requirement is proposed to be met and exceeded with 2.48 acres of woodland preservation. The forest stand delineation has identified 24 specimen trees on-site. This application proposes the removal of nine specimen trees.

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 Technical Manual.”

The site contains 24 specimen trees with the ratings of good (specimen trees 3, 5-9, 12–15, 27-29, and 31–34), fair (specimen trees 35 and 37), and poor (specimen trees 4, 10, 11, 16, and 36). The current design proposes to remove specimen trees 5, 8, 11, 12, 13, 16, 31, 32, and 35 for the development of the buildings and associated infrastructure.

Review of Subtitle 25 Variance Request

Section 25-119(d)(1) of the WCO contains six required findings to be made before a variance can be granted. A Letter of Justification received with the application on August 6, 2018, seeks to address the required findings for all nine specimen trees as a group; however, details specific to individual trees has also been provided in the following chart.

Specimen Tree Schedule Summary

ST #	COMMON NAME	Diameter (in inches)	CONDITION	DISPOSITION
3	Tulip poplar	32	Good	To be saved
4	Tulip poplar	50	Poor	To be saved
5	White oak	40	Good	To be removed
6	Tulip poplar	34	Good	To be saved
7	Tulip poplar	31	Good	To be saved
8	White oak	37	Good	To be removed
9	Tulip poplar	33	Good	To be saved
10	Black cherry	30	Poor	To be saved
11	Tulip poplar	37	Poor	To be removed
12	Linden	33	Good	To be removed
13	Silver maple	60	Good	To be removed
14	Silver maple	61	Good	To be saved
15	Sweetgum	32	Good	To be saved
16	Sweetgum	32	Poor	To be removed
27	Tulip poplar	43	Good	To be saved
28	Tulip poplar	40	Good	To be saved
29	Tulip poplar	32	Good	To be saved
31	Tulip poplar	34	Good	To be removed
32	White oak	32	Good	To be removed
33	Tulip poplar	34	Good	To be saved

34	Tulip poplar	44	Good	To be saved
35	Slippery elm	33	Fair	To be removed
36	Black cherry	30	Poor	To be saved
37	Tulip poplar	30	Fair	To be saved

Statement of Justification (SOJ) for Specimen Trees

A variance from Section 25-122(b)(1)(G) is requested for the clearing of the nine specimen trees on-site. The site consists of 7.64 acres and is zoned M-X-T. The current proposal for this property is to develop the site with a mixed-use development consisting of multifamily dwelling units and retail space, along with associated infrastructure. This variance is requested to the WCO, which requires under Section 25-122 of the Prince George's County Zoning Ordinance, that "woodland conservation shall be designed as stated in this Division unless a variance is approved by the approving authority for the associated case." The Subtitle Variance Application form requires a SOJ of how the findings are being met.

The text in **bold**, labeled A–F, are the six criteria listed in Section 25-119(d)(1). The plain text provides responses to the criteria.

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

The site is confined between stream systems and steep slopes within the north and south boundaries. The development of US 301 contributed to defining the stream channels by diverting road surface runoff to these natural ravines. In addition, Marlboro clays have been mapped and surveyed on the property, further limiting the development potential of the site. When these constraints are identified on a plan, the remaining land available for development consists of a single area in the center of the property. To effectively develop the site with the appropriate mix of uses, the necessary right-of-way and infrastructure improvements and the grading necessary to effectively develop the site, the subject specimen trees must be removed.

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

The northern and southern sections of the property cannot be developed due to the various environmental constraints. These areas are primarily forested. Specimen trees 13, 16, 31, 32, and 35 are proposed to be removed to meet right-of-way improvements, required for developing the site and conformance to the master plan for the extension of Peerless Avenue. Specimen trees 5, 8, 11, and 12 are proposed to be removed to meet necessary grading requirements, while remaining outside of the primary management area (PMA). Although the subject specimen trees are proposed to be removed, the applicant is proposing to retain the remaining 15 specimen trees located on the property. The proposed development of the site is in keeping with similar projects within the area.

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

Based on the various site constraints, the granting of this variance will allow the project to be developed in a functional and efficient manner.

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

This request is not based on conditions or circumstances, which are solely the result of actions by the applicant. The removal of the specimen trees is primarily due to proximity with the proposed developable portion of the site and the required improvements to the right-of-way within the site. The request is not the result of actions by the applicant.

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

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

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

The proposed development will not adversely affect water quality because the review of the project will be subject to the requirements of the Maryland Department of the Environment (DoE), the Prince George's County Soil Conservation District (PGSCD), and the approval of a stormwater concept plan by the Department of Permitting, Inspections, and Enforcement (DPIE). Further, the applicant is proposing to meet all of the woodland conservation requirements on-site with forest retention by preserving much of the PMA on-site.

The required findings of Section 25-119(d) have been addressed by the applicant, and staff recommends **approval** of the removal of specimen trees (STs) 5, 8, 11, 12, 13, 16, 31, 32, and 35.

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 stormwater management 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, stormwater management 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 are proposed for the required improvements to the existing road/right-of-way entering the site, demolition of existing structures and for stormwater management outfalls. A statement of justification was received with the application on August 6, 2018 for the proposed impacts to the PMA and stream buffer.

Statement of Justification (SOJ) for PMA Impacts

The Statement of Justification includes a request for two separate PMA impacts totaling 29,905 square feet (0.69 acres), or approximately 24 percent of the 2.86 acres of PMA mapped on the property.

Analysis of Impacts

Based on the revised statement of justification, the applicant is requesting a total of two impacts listed, then described below:

- **Impact 1:** 18,370 square feet for the development of the required public right-of-way. The PMA has been established here based on the stream buffer and associated steep slopes; however, the width and location of the right-of-way is determined by DPW&T standards. The alignment is fixed on the existing centerline of Peerless Avenue and due to the widening requirements, additional grading will be required to account for the difference in fill for the proposed road. Impacts are necessary and already partially exist.
- **Impact 2:** 11,535 square feet for the development of the required public right-of-way, removal of existing structures, and for stormwater management. The PMA has been established here based on the stream buffer and associated steep slopes. The width and location of the right-of-way is determined by DPW&T standards, and the alignment is fixed on the entrance of Peerless Avenue with US 301. Additionally, the PMA will be impacted by the removal of the existing structures and the installation of a stormwater management outfall. The outfall has been designed to minimize the disturbance within the PMA.

Based on the level of design information currently available, the limits of disturbance shown on the TCP1 and the impact exhibits provided in the applicant's PMA and SOJ accepted on August 14, 2018, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible. Staff finds that the impacts necessary for public road infrastructure improvements, removal of existing structures, and stormwater management outfalls (Impacts 1 and 2) are reasonable for the orderly and efficient development of the subject property. Staff recommends **approval** of PMA Impacts 1 and 2.

Soils

The predominant soils found to occur according to the United States Department of Agriculture, Natural Resources Conservation Service (USDA NRCS), Web Soil Survey are the Collington-Wist-Urban land complexes, Marr-Dodon complexes and Udorthents, highway soils.

This property is also 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. The TCP1 shows the limits of Marlboro clay and the location of the 1.5 safety factor line, both mitigated and unmitigated. Upon review of the TCP1, it appears that all the proposed buildings are outside the limits of Marlboro clay and more than 25-feet from the 1.5 safety factor line, which is required in accordance with Section 24-131 of the Subdivision Regulations; however, the proposed improvements to Peerless Avenue is within the unmitigated and mitigated 1.5 safety factor lines.

The site also proposes some stormwater management in areas of concern. A geotechnical report dated June 2018 was submitted. The report was reviewed by Prince George's Department of

Permitting, Inspections and Enforcement (DPIE) with regard to slope stability measures and proposed stormwater management. Comments from DPIE (Labban to Burke) were provided in emails dated October 4, 2018 and October 5, 2018, incorporated herein by reference.

With regard to stormwater management, DPIE noted that the location and of all proposed stormwater control facilities were acceptable with the exception of pond FBIO-01, as identified in the report, due to the pond's bottom close proximity (less than 10 feet) to the top elevation of the clay layer. The pond is located on the south side of Peerless Avenue. The proposed stormwater concept plan approval is still pending, but DPIE has confirmed that the pond location must be adjusted and/or relocated prior to its approval.

With regard to the proposed road within the limits of the Marlboro clay, DPIE stated that mitigation will be required. Mitigation will occur by either removing the clay and replacing with an appropriate fill or reducing the slopes in that area to an acceptable elevation. As part of the stormwater concept review, the proposed grading and road improvements will also be reviewed with consideration of the presence of Marlboro Clay. Changes to the proposed grading and layout as a result of any required mitigation shall be reflected on the DSP and TCP2.

14. **Urban Design**—In accordance with Section 27-515(b) of the Zoning Ordinance, the proposed mixed-use development consisting of commercial/retail and residential uses is permitted in the M-X-T Zone and is subject to a detailed site plan approval in accordance with Section 27-546(a) of the Zoning Ordinance. This project will include rental units and is not intended for sale; therefore, no condition is recommended to require the establishment of a homeowner's associations or a condominium regime. However, if this ownership were to change, any declaration of covenants would require the rights of M-NCPPC to ensure that the association does not annex or de-annex any lands from the limit of this application.

One of the key purposes of the M-X-T Zone is to create a compact, mixed-use and walkable environment. Among eleven additional findings required for the Planning Board to approve a DSP is a requirement to ensure that the proposed pedestrian system is convenient and comprehensively designed to encourage pedestrian activity within the development. Since the subject site is small, the applicant should strengthen the connectivity between different uses and internally for the residential component and further explore opportunities to create a comprehensive pedestrian network that would allow for physical integration of the development.

Conformance with the 2010 Prince George's County Landscape Manual

In accordance with Section 27-544(a), this development in the M-X-T Zone is subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) at the time of DSP. Specifically, the site is subject to Section 4.1, Residential Requirements; Section 4.3, Parking Lot 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, of the Landscape Manual.

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 M-X-T are required to provide a minimum of 10 percent of the gross tract area covered by tree canopy. The subject site is 7.64 acres in size and the required TCC is 0.764 acre. Conformance with the requirements of the TCC Ordinance will be reviewed at the time of DSP.

Loop Trail

Private, indoor recreational facilities are proposed with this development, however, staff believes that a more robust package of open space and amenities is appropriate in this location, which is fairly isolated, for this mixed-use project. Staff proposes that two trails be considered on the subject property.

A loop trail that could ring the bio-retention area (FBIO 01) south of Peerless Avenue and connect to the sidewalk network around the parking lot would encourage pedestrian activity. A path could be used for a dual purpose, as a trail and as a maintenance access for the bio-retention pond on the parcel on the south of Peerless Avenue, however this may add one additional environmental impact that can be evaluated at the time of DSP.

Marlboro clay is present to the north of the property; a trail if sited parallel to the northern property line and graded with a gentle slope would put the trail at an elevation lower than the rear of the proposed two-family and three-family units. A retaining wall would not be necessary, and trail could be constructed to meet Americans with Disabilities Act (ADA) guidelines. That trail could also connect to the sidewalks already proposed.

Based on a conceptual review by the Environmental Planning Section, both trails are feasible in this subdivision.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of this preliminary plan of subdivision, the following revisions shall be made:
 - a. Revise General Note 1 with the descriptions and recording references of all lots included on-site.
 - b. Provide the names of all property owners included in this plan.
 - c. Revise all references from "Peerless Drive" to "Peerless Avenue."
 - d. Revise the applicant block with the correct applicant.
 - e. Indicate all property owners on the plan.
 - f. Label all buildings to be razed consistently.
 - g. Revise General Note 22 to include stormwater management concept plan number, and date of approval if approved.
2. Prior to certification of the preliminary plan of subdivision, the TCP1 shall be revised as follows:
 - a. Add "TCP1-004-2018" to the approval block and to the worksheet.

- b. Include the initial reviewer, date, and the Conceptual Site Plan (CSP-17004) to the approval block, once the initial TCP1 review has been approved. Then add PPS 4-18004 and the reason for revision to the '-01' revision.
 - c. Revise the limits of disturbance to include the grading for the outfall proposed toward the southwest corner of the property, as is shown and described in the statement of justification for primary management area impacts.
 - d. Revise General Note 7 to state, "...within Plan Prince George's 2035, Environmental Strategy Area Two, formerly the Developing Tier...".
 - e. Revise General Note 13 to provide the Conceptual Stormwater Management Plan number.
 - f. Revise the ownership information for the adjacent properties.
 - g. Add a column for the Development Review Division (DRD) number in the TCP1 approval block.
 - h. Identify the steep slopes on the plan with shading.
 - i. Provide darker, more legible line weight for the 1.5 safety factor lines.
 - j. Have the revised plan signed and dated by the qualified professional preparing the plan.
3. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-004-2018-01). 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 (TCP1-004-2018-01), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George's County Planning Department."
- 4. The applicant, their successors, and/or assignees, shall provide adequate, private recreational facilities in accordance with the standards outlined in the *Park and Recreation Facilities Guidelines*.
 - 5. The applicant shall allocate appropriate and developable areas for the private recreational facilities. The private recreational facilities shall be reviewed by the Urban Design Section, of the Development Review Division (DRD), of the Planning Department for adequacy and property siting with the submittal of the Detailed Site Plan.
 - 6. Prior to a submission of a final plat the applicant, their heirs, successors and or assignees shall submit three original, Recreational Facilities Agreements (RFAs) to the DRD for their approval. Upon approval by the DRD, the RFA shall be recorded among the land records of Prince

George's County, Upper Marlboro, Maryland and the liber/folio indicated on the final plat prior to recordation.

7. At the time of detailed site plan (DSP), detailed analysis of the internal sidewalk and trail network will be made. The following issues will be evaluated at that time:
 - a. Sidewalks shall be provided along both sides of all parking lots and drive aisles, consistent with the Complete Streets Policies of the Master Plan of Transportation.
 - b. A small amount of bicycle parking shall be provided at the commercial space. The number and location will be determined at the time of DSP.
 - c. A private recreational trail connection within the property.
8. Total development within the subject property shall be limited to uses which generate no more than 55 AM peak-hour trips and 61 PM peak-hour trips in consideration of the approved trip rates. Any development generating an impact greater than that identified herein above shall require a revision to the PPS with a new determination of the adequacy of transportation facilities.
9. Prior to approval, of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall:
 - a. Dedicate to public use a 70-foot-wide right-of-way which transitions to a 60-foot-wide right-of-way west of the commercial portion of the site for the relocated Peerless Avenue. The transition shall be designed in accordance with the specifications of DPIE/DPW&T.
 - b. Describe a conservation easement by bearings and distances. The conservation easement shall contain the floodplain, as determined by DPIE on August 11, 2017, and all stream buffers and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
 - c. Grant the 10-foot-wide public utility easements (PUEs) along the public rights-of-way of US 301 and Peerless Drive
10. Prior to the issuance of any building permit for residential development, the applicant and the applicant's heirs, successors, and/or assignees shall, pay to Prince George's County (or its designee) a fee of \$1,685.28 per dwelling unit. This unit cost shall be adjusted based on an inflation cost index factor to be determined by the DPW&T at the time of the issuance of each permit.
11. Prior to the issuance of any building permit for the commercial component, the applicant and the applicant's heirs, successors, and/or assignees shall, pay to Prince George's County (or its designee) a fee of \$25,841.00. This cost shall be adjusted based on an inflation cost index factor to be determined by the Department of Public Works and Transportation (DPW&T) at the time of the issuance of each permit.

12. The areas of impact to the PMA (Impact 1 and 2), to be approved with this PPS, will remain undeveloped and shall be stabilized and reforested. The woodland conservation worksheet shall be revised as necessary to reflect the additional reforestation prior to the approval of the Type 2 tree conservation plan (TCP2).
13. Prior to approval of the detailed site plan, the proposed stormwater management concept plan, which will include requirement for the relocation of the proposed pond (FBIO-01) and slope stability mitigation for the proposed improvements to Peerless Avenue, shall be reflected on all development plans.
14. Development of this site shall be in conformance with an approved stormwater management concept plan and any subsequent revisions.
15. The applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on-site prior to issuance of building permits.
16. Prior to the approval of the building permits by M-NCPPC for permits which include residential uses, a professional engineer with competency in acoustical analysis shall state that the interior noise levels of the affected parcels have been reduced through the building materials to 45 dBA Ldn or less.
17. Prior to approval of a detailed site plan which includes residential development, the applicant shall submit a Phase 2 noise analysis for any outdoor activity areas are located within the unmitigated 65 dBA Ldn noise contour and provide mitigation measures to reduce noise levels to 65 dBA Ldn or less.
18. 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 detailed site plan.”
19. The applicant shall show the location of the mitigated safety factor line and a 25-foot building restriction line from the mitigated safety factor line on the TCP2 and the detailed site plan prior to approval, if applicable.

STAFF RECOMMENDS:

- Approval of Preliminary Plan of Subdivision 4-18004
- Approval of Type 1 Tree Conservation Plan TCP1-004-2018-01
- Approval of a Variance from Section 25-122(b)(1)(G)