



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

# Preliminary Plan of Subdivision Crain Commons

## 4-18016

REQUEST	STAFF RECOMMENDATION
This case was continued from the Planning Board hearing of January 23, 2020.  76 lots and 12 parcels for single-family attached and commercial development	DISAPPROVAL
Variance request from Section 25-122(b)(1)(G) Variation request from Section 24-121(a)(3)	DISAPPROVAL DISAPPROVAL

**Location:** On the east side of northbound Route 301 (Robert Crain Highway), approximately 160 feet south of its intersection with MD 382 (Croom Road).

Gross Acreage:	15.36
Zone:	C-S-C/R-R
Gross Floor Area:	9,965 sq. ft.
Lots:	75
Parcels:	12
Planning Area:	82A
Council District:	09
Election District:	15
Municipality:	N/A
200-Scale Base Map:	210SE11

**Applicant/Address:**  
Petroleum Marketing Group, Inc.  
2359 Research Court  
Woodbridge, VA 22192

**Staff Reviewer:** Eddie Diaz-Campbell  
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Planning Board Date:	01/30/2020
Planning Board Action Limit:	02/02/2020
Mandatory Action Timeframe:	140 days
Staff Report Date:	01/09/2020
Date Accepted:	08/13/2019
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Acceptance Mailing:	08/07/2019
Sign Posting Deadline:	01/04/2020

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THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-18016  
Type 1 Tree Conservation Plan TCP1-003-2018  
Crain Commons

**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, and 64 recorded in the Prince George's County Land Records in Liber 32304 at folio 11, Liber 9263 at folio 187, and Liber 36669 at folio 565, 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 and 53 are undeveloped; Lots 1 and 3 are each developed with a single-family detached house, while 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 9,965 square feet of commercial development accessed from US 301. The second development pod would be for the townhouse development and is proposed to have 75 lots and 12 parcels accessed from MD 382, as discussed further.

The site abuts US 301 to the north, an existing arterial roadway. Section 24-121(a)(3) of the Prince George's County 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 based on the plan's lack of conformance to the master plan and the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035), and its incompatibility with the surrounding low-density residential community, as discussed further in the Community Planning 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 MD 382, with property beyond in the Residential-Agricultural Zone, which is developed with single-family detached residential. Adjacent properties to the southeast and southwest are zoned Residential-Estate and are vacant and developed with single-family detached residential, respectively. US 301 bounds the site to the northwest, with property beyond zoned C-S-C, and 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.

	EXISTING	PROPOSED
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)	Gas Station Single-Family Detached Vacant	Commercial Single-Family Attached (Townhouse)
Acreage	15.36	15.36
Gross Floor Area	1,054 square feet	9,965 square feet
Parcels	3	12
Lots	2	75
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 September 6, 2019. The requested variation from Section 24-121(a)(3) was accepted on August 13, 2019, and also heard before SDRC on September 6, 2019, 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 contains an existing single-family detached dwelling, proposed to remain at the time but now proposed to be removed. Parcel 1, resulting from PPS 4-10017, was developed with a CVS Pharmacy and is not part of the current application. The current PPS 4-18016 will supersede the previous approval for Lot 1 of the subject site, if approved.

A previous PPS for the subject site (Parcels 47, 53, and 64 and Lots 1 and 3) was submitted on March 26, 2018, as application 4-17039. Staff recommended disapproval of this prior PPS and the application was subsequently withdrawn. PPS 4-17039 proposed development substantially similar to that currently under review, including 76 townhouse lots and 10,250 square feet of commercial development.

3. **Community Planning**—Staff opposes the applicant’s request to construct 75 townhouses on the subject site because this PPS is not in conformance with Plan 2035, in accordance with Section 24-103(a), Section 24-104(a)(2) and Section 24-121 of the Subdivision Regulations, which set forth the following Policy, Purposes, and Planning and design requirements, as they relate to Plan 2035:

**Sec. 24-103. – Policy.**

- (a) **It is hereby declared to be the policy of Prince George’s County to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the County, pursuant to the General Plan, for the orderly, planned, efficient, and economical development of the County.**

**Sec. 24-104. – Purposes.**

- (a) **The purposes of this Subtitle are as follows:**
- (2) **To guide development according to the General Plan, area master plans, and their amendments.**

**Sec. 24-121. - Planning and design requirements.**

- (a)(5) **The preliminary plan and final plat shall conform to the area master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant recommendations within the comprehensive plan no longer appropriate, is no longer applicable, or the District Council has not imposed the recommended zoning. Notwithstanding any other requirement of this Section, a proposed preliminary plan or final plat of subdivision may be designed to conform with the land use policy recommendations for centers, as approved within current County general plan. In such cases, the Planning Board may approve a preliminary plan application as may be designed to conform with the land use policy recommendations for centers, as duly approved within the current General Plan.**

Staff finds that the PPS does **not** conform to Plan 2035 (the General Plan), because the proposed subdivision:

- 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 recommends in its designation of the application site in the Established Communities policy area.

### **General Plan**

When development plans are in conformance with recommendations in approved master plans or sector plans, the Zoning Ordinance, and the Subdivision Regulations, they may be presumed to conform to Plan 2035 policies and recommendations. However, for reasons described below, there are insufficient development standards applying to this site to allow such a presumption.

The Prince George's County District Council amended the Zoning Ordinance in Prince George's Council Bill CB-122-2017, to allow townhouses as a by-right permitted use in the R-R and C-S-C Zones. However, with this bill the District Council also exempted townhouses from the development standards of these zones, without adopting any replacement development standards to govern the townhouse development. The District Council instead delegated authority to set standards to the Planning Board as part of the detailed site plan (DSP) review process (Section 27-441(b), footnote 120 for the R-R Zone; Section 27-461(b), footnote 68 for the C-S-C Zone).

Roughly a year later, the District Council adopted CB-75-2018, which was intended to provide additional guidance to the Planning Board. CB-75-2018 amended the use table footnote created by CB-122-2017, now codified in Section 27-441(b), footnote 120(C) of the Zoning Ordinance, to state that for certain properties in the R-R Zone, townhouses are permitted, provided:

**A Detailed Site Plan shall include adjoining property located in the C-S-C Zone and be approved in accordance with Part 3, Division 9, of this Subtitle. Regulations concerning the net lot area, lot coverage, frontage, setbacks, density, landscaping and other requirements of the R-R Zone shall not apply. These dimensional (bulk) regulations shall be approved in accordance with such requirements applicable to a Regional Urban Community in the M-X-T Zone, as set forth in Section 27-544(f)(2)(E) and (G) of this Subtitle, by the Planning Board (or District Council after review) in the Detailed Site Plan. The Detailed Site Plan shall show commercial development and include architectural review to ensure high quality design and construction materials compatible with the surrounding area.**

According to this footnote, for applicable projects, development standards consistent with Sections 27-544(f)(2)(E) and (G) of the Zoning Ordinance will apply in lieu of R-R Zone development standards. However, Sections 27-544(f)(2)(E) and (G) only regulate the

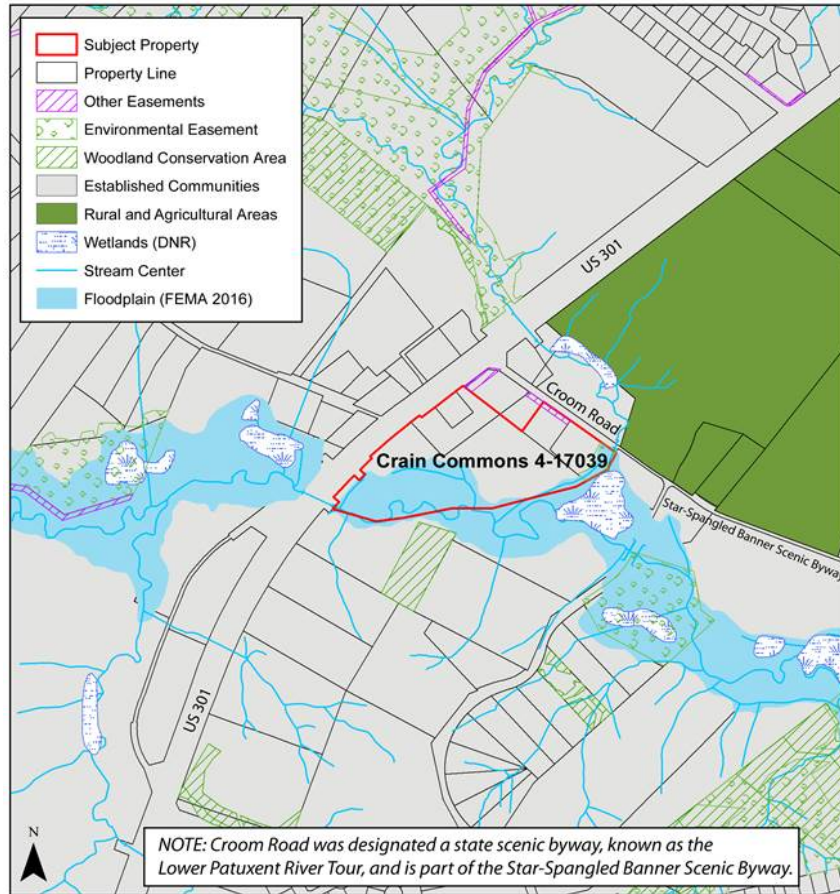
composition and design of individual townhouse building groups and do not speak to more basic development standards commonly regulated through zoning and referenced in the footnote, including net lot area, lot coverage, frontage, setbacks, landscaping, and most important to the establishment of a subdivision, density. The Zoning Ordinance has no set density standards for a Regional Urban Community in the Mixed-Use Transportation Oriented (M-X-T) Zone. Instead, in a Regional Urban Community, the maximum number and type of dwelling units is determined at the time of the conceptual site plan approval (CSP), per Section 27-544(f)(2)(A). There is no prior CSP approval governing this site, nor is one required under the R-R or C-S-C zoning regulations.

Conformance to the Residential Low (up to 3.5 dwelling units per acre) future land use recommended by the Subregion 6 Master Plan and SMA for the subject property was rendered inappropriate because per Section 24-121(a)(5) of the Subdivision Regulations, master plan conformance is not required if events have occurred to render the relevant recommendations within the plan no longer appropriate. The qualifying intervening event is the adoption of the council bill permitting townhouses in the R-R Zone. As a result, the only guidance available to staff and the Planning Board with which to review this application is that contained in Plan 2035.

Plan 2035 classifies the application site in the Established Communities Growth Policy area. Established Communities are “most appropriate for context sensitive infill and low- to medium-density development” (Plan 2035, 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 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).

In addition, the General Plan (Plan 2035, page 100) reinforces the master plan recommendation of Residential Low future land use for most of the application site (12.51 acres), with Commercial land use recommended for the remaining northern portion (2.85 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” (Plan 2035, page 100).

Though CB-122-2017 intended to delegate authority to set development standards to the Planning Board, staff cannot recommend approval of a plan or standards that contradict Plan 2035, as it is the most authoritative guiding document available given the lack of standards under the zoning and the inapplicability of the relevant master plan standards. The residential portion of the site, at a density of 5.9 units per acre of gross land area, exceeds Plan 2035’s recommended density for Residential Low areas. The commercial portion of the site does conform to Plan 2035.



**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 MD 382 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).

As these recommendations would apply regardless of the development proposed for the site, they are still applicable and must be conformed to under Section 24-121(a)(5) of the Subdivision Regulations.



### **SMA/Zoning**

The Subregion 6 Master Plan and SMA (CR-83-2013) retained 12.51 acres of the application site in the R-R Zone, and the remaining 2.85 acres in the C-S-C Zone. In retaining the R-R and C-S-C Zones, the 2013 SMA implemented future land use recommendations in the master plan (Residential Low and Commercial).

### **General Plan Conformance Issues**

The application's proposed development of 75 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 and 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, that "recommends directing the majority of future employment and residential development be concentrated in Regional Transit Districts and Local Centers" (page 19). 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 75 townhouses on 15.36 acres of R-R and C-S-C-zoned land would result in residential development at a density of 4.9 dwelling units per acre ( $15.36 \times 4.9 = 75$ ). However, per the Zoning Ordinance, it is required that density be based on the net lot area. As this site contains floodplain, the net area of the site is 9.8 acres, which would indicate 7.7 dwelling units per acre are proposed. This is over 100 percent higher than the 3.5 dwelling units per acre that defines the Residential Low category of future land use recommended for the application site (see Figure 2). This number of dwelling units would conflict with the recommendations in the General Plan, and a lower density 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).

In order to bring the site into conformance with a density of 3.5 dwelling units per acre, a significant reduction to the proposed lots would be required and result in a redesign of the site. Due to the findings set forth above and the recommendation for reduction of more than half of the single-family attached lots, staff is compelled to recommend **disapproval** of the proposed PPS.

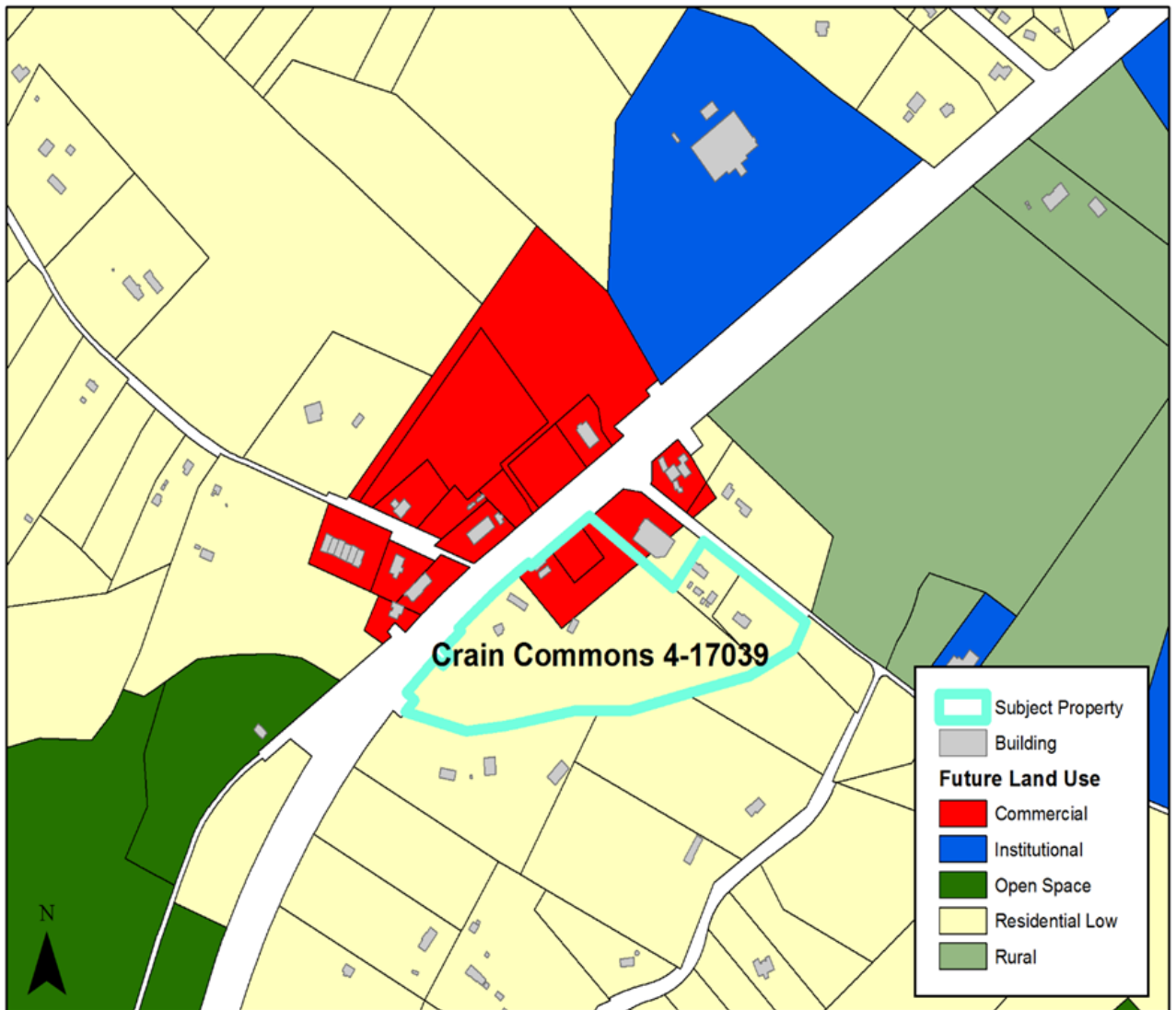


Figure 2: Recommended Future Land Use (2013 Approved Subregion 6 Master Plan)



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

4. **Stormwater Management**—A Stormwater Management (SWM) Concept Letter and Plan, 57752-2017, was approved by the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE) on June 21, 2018 and is valid through June 21, 2021. The SWM concept plan shows the proposed use of 13 micro-bioretention areas and 62 drywells. Given that the location of the project is 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 Subregion 6 Master Plan and SMA, and the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, as they pertain to public parks and recreational facilities.

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 75 single-family attached residential homes and 9,965 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 units relative to the 15.36-acre gross land area of the site, the applicant may be required to dedicate 7.5 percent of their land to M-NCPPC for public parks, if the applicant's proposed density is determined to be permissible. In this case, application of the mandatory dedication of parkland requirement would require the dedication of approximately one acre 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 Subregion 6 Master Plan and SMA, 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 by 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, staff would recommend the conveyance of parkland for the purposes of meeting the mandatory dedication of parkland requirements for this site. The plans submitted by the applicant

propose the conveyance of Parcel H (6.27 acres) to M-NCPPC, which exceeds the mandatory parkland dedication requirement.

6. **Trails**—This PPS was reviewed for conformance with 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 along a portion of the southwest boundary of the property, and a planned bikeway runs along 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 the Charles Branch Stream Valley 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 while respecting the scenic and rural nature of the road, consistent with state policy implementing context sensitive solutions. A condition of approval for frontage improvements was applied to the adjacent CVS Pharmacy 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, the accommodation of pedestrians, and provision of complete streets:

**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) submitted by the applicant was based on 77 units however, at subsequent submittals, the applicant revised the PPS for 76, and then 75 units. Using trip generation rates from the "Transportation Review Guidelines, Part 1," the proposed development of 75 townhomes and 9,965 square feet will generate 101 AM and 171 PM net new trips. Because the existing uses are generating traffic, and will be subsequently razed, the trips associated with those uses will be subtracted from the new trips generated by the new development. Consequently, the total traffic was evaluated based on 59 AM and 123 PM net new trips.

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

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

The findings and recommendations outlined below are based upon a review of the materials and analyses conducted, consistent with the "Transportation Review Guidelines, Part 1."

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 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 ratio greater than 0.850 for the intersection, geometric improvements or trip reduction measures should be considered that will reduce the volume-to-capacity ratio to an acceptable

level. The operating agency can deem a volume-to-capacity ratio 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 provided a TIA dated July 2019. Using data from this TIA, the following results were determined:

<b>EXISTING CONDITIONS</b>		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301 and MD 382	C/1295	B/1138
US 301 and Osborne Road	B/1075	C/1185
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 1.0 percent per year for six years was applied to the through traffic along US 301. A background scenario analysis based on future developments yielded the following results:

<b>BACKGROUND CONDITIONS</b>		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301 and MD 382	<b>E/1492</b>	C/1281
US 301 and Osborne Road	C/1208	D/1345
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 75 townhomes and 9,965 square feet of commercial retail will generate 101 AM and 171 PM net new trips.

Table 1						
Trip Generation Summary						
Land Use	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Proposed retail – 9,965 square feet	133	120	253	99	104	203
<i>Less pass-by Trips</i>	<i>-106</i>	<i>-99</i>	<i>-205</i>	<i>-45</i>	<i>-47</i>	<i>-92</i>
<b>New Retail Trips</b>	<b>27</b>	<b>21</b>	<b>48</b>	<b>54</b>	<b>57</b>	<b>111</b>
Proposed townhouses - 75 units	7	46	53	39	21	60
<b>Total Trips (new trip cap) 1</b>	<b>34</b>	<b>67</b>	<b>101</b>	<b>93</b>	<b>78</b>	<b>171</b>
Existing Development						
Convenience Store	49	50	99	57	57	114
<i>Less pass-by trips</i>	<i>29</i>	<i>30</i>	<i>59</i>	<i>34</i>	<i>34</i>	<i>68</i>
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>14</b>	<b>45</b>	<b>59</b>	<b>69</b>	<b>54</b>	<b>123</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 59 AM and 123 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 MD 382 <i>With mitigation</i>	<b>E/1518</b> <i>D/1426</i>	<b>D/1318</b> <i>D/1303</i>
US 301 and Osborne Road	D/1239	D/1446
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/MD 382 intersection. To mitigate the failing intersection, the TIA recommends 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 92 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 TIA 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 in 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 serviceroad (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 letter to SHA (Burton 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 is in receipt of an email from Mr. David Rodgers, Regional Planner from the Regional and Intermodal Planning Division of SHA. In that email, Mr. Rodgers informed staff that the Maryland Department of Transportation offers no comments regarding the reservation of the portion of F-10 that will impact this development. As a result of SHA's 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.

As US 301 is currently an arterial road at the property location, the plan does propose 6,808 square feet of right-of-way dedication to SHA along a portion of the property frontage, in order to bring the arterial to a standard 150 foot width. This dedication is

not called for by MPOT because of US 301's planned upgrade to freeway classification. However, the right-of-way may be dedicated as proposed if accepted by SHA.

### **Variation Request**

The applicant is requesting a variation from Section 24-121(a)(3) with this application, 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 US 301 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 MD 382. 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. In front of the subject property, with the exception of the existing traffic light, US 301 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 US 301. 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 US 301 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 US 301 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 US 301, and a single-family attached residential development that will access MD 382. There are no internal streets or service roads accessible in the area. Without access to US 301, 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;**

Since 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, US 301 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 Plan 2035, 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. The use of private streets and alleys to serve the proposed subdivision is permissible according to Section 24-128 of the Subdivision Regulations, and is further discussed in the finding below.

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. This is permissible under Section 24-128(b)(19), which allows the Planning Board to approve private streets and alleys under certain circumstances in the R-R and C-S-C zones, among others.

This provision of the Subdivision Regulations was enacted under CB-81-2018 (DR-1), approved by the County Council on October 23, 2018, and signed by the County Executive on November 14, 2018. The private roads and alleys proposed with this development would have acceptable internal access and circulation. Therefore, staff finds that the proposed subdivision satisfies the requirements of Section 24-128.

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	75	75	75
Pupil Yield Factor	0.145	0.06	0.108
Total Future Subdivision Enrollment	11	6	8
Actual Enrollment in 2018	4,795	1,923	2,471
Total Enrollment	4,806	1,929	2,479
State Rated Capacity	6,401	2,490	3,754
Percent Capacity	75%	77%	66%

Section 10-192.01 establishes school surcharges and an annual adjustment for inflation. The current amount is \$16,698 as this project is located outside of the I-495 Capital Beltway. This fee is to be paid at the time of issuance of each building permit.

**Nonresidential**

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

10. **Public Facilities**—In accordance with Section 24-122.01, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated December 23, 2019 (Hancock to Diaz-Campbell), provided in the backup of this technical staff report and incorporated by reference herein.
11. **Use Conversion**—The total development included in this PPS is proposed for 75 single-family attached dwellings and 9,965 square feet of commercial development in the R-R and C-S-C Zones. 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.

- 12. Public Utility Easement (PUE)**—Section 24-122(a) 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 MD 382 to the northeast and US 301 to the northwest. The required PUEs along the public streets are delineated on the PPS, with the exception of two stretches of US 301 frontage near the southeast corner of the site where the right-of-way line extends deeper than usual into the property. PUEs must be delineated in these locations. Private streets are also proposed, which require PUEs. Section 24-128(b)(12) requires that 10-foot-wide PUEs be provided along one side of all private streets; the PPS meets this requirement.

- 13. 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.

- 14. 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	Approved	08/13/2018	NA
4-17039	TCP1-003-2018	Planning Board	Withdrawn	NA	NA
4-18016	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 subject to the environmental regulations contained in Subtitles 24, 25, and 27 that came into effect on September 1, 2010 and February 1, 2012, and specifically to the 2010 Woodland and Wildlife Habitat Conservation Ordinance (WCO) and the Environmental Technical Manual.

### **Site Description**

The subject property is located in the southeast quadrant of the intersection of US 301 and MD 382, and surrounds an existing commercial property recently developed as a CVS Pharmacy.

A review of the available information identified regulated environmental features such as areas of steep slopes, 100-year floodplain, streams, associated buffers, and PMA 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 the 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 on site according to the US Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey 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 (SSPRA) based on a review of the SSPRA GIS layer prepared by the Maryland Department of Natural Resources Natural Heritage Program. According to PGAtlas, there are 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 MD 382, which is a special roadway designated as a historic road and/or scenic road. The site abuts US 301, classified as an arterial/future freeway, which is a source of significant traffic-generated noise that may impact the proposed residential use of the site.

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 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. Its Generalized Future Land Use is Residential Low 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, more than half of the site contains Regulated Area, while the remainder is designated as Evaluation Area.

The subject property contains a section of Charles Branch and its associated buffers which flows eastward to connect to the Patuxent River Corridor and is a designated Special Conservation Area. Efforts to protect the entire Patuxent watershed began in the 1960s through Maryland's Patuxent River Watershed Act, encouraging the seven counties adjacent to the river to preserve its natural lands. M-NCPPC owns more than 7,400 acres of marshes, swamps and woodlands along the river, known collectively as the Patuxent River Park. Together, with thousands of acres owned by the Maryland Department of Natural Resources and other counties, protected lands along the Patuxent compose one of Maryland's premier greenways.

The preservation of the natural environment and the river's scenic character along this corridor are priorities. To this end, much of the Patuxent River watershed was designated in the Rural and Agricultural Area by Plan 2035. The low-density zoning and the proposed conservation methods proposed in the General Plan support the protection of the green infrastructure corridors of the river and its tributaries.

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 as PMA and provides habitat and an eco-services corridor linked to the Patuxent River Corridor. The Charles Branch, which crosses the subject property, is a designated stream valley park which links to the Patuxent River Park along a Green Infrastructure corridor planned for conservation through public ownership, preservation and enhancement.

Proposed impacts to regulated areas are discussed in more detail below under the “Preservation of Regulated Environmental Features/Primary Management Area” heading of this section of the staff report.

**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 preservation of regulated environmental features within the Green Infrastructure network to the fullest extent possible, as well as mitigation and restoration opportunities on-site, were evaluated during review of the Type 1 tree conservation plan (TCP1). Preservation of regulated environmental features is discussed in the Environmental Review section of this finding.

**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.**
  - 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 are deferred until DSP and Type 2 tree conservation plan (TCP2) review 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 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 letter and plan in conformance with the current code were submitted with 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 and Wildlife habitat Conservation Priorities established in the local ordinance, Section 25-121-(b), with the highest priority woodland conservation being green infrastructure network elements designated in the Countywide Green Infrastructure Plan. Retention and planting of native species on-site is both prioritized and required by the Environmental Technical Manual, and the Prince George's County 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 is designed to retain contiguous blocks of woodlands, maintain connectivity, minimize fragmentation and reinforce new forest edges to the extent possible. 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 within the Environment chapter; the text in **bold** is from the master plan, while the plain text provides staff 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 secondary 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 NRI-182-2017-01, approved on August 13, 2018, was submitted with the application. During the review of the current application, an error was identified in the NRI statistics table which affect the calculation of the woodland conservation requirement and needs to be revised. According to the NRI this site contains 15.36-acres of gross tract area, and 5.53 acres of 100-year floodplain, which would result in a corrected net tract area of 9.83 acres. The site statistics table indicates that 0.1563 acre of future right-of-way dedication was deducted from the gross tract in calculating the net tract. The deduction of the proposed right-of-way dedication from the gross tract area is not allowed in determining the net tract area for determining woodland conservation requirements. The -01 NRI will require revisions prior to signature approval of the TCP2 to accurately show the NRI site statistics and reconcile with the site statistics shown on the TCP1 site statistics table and woodland conservation worksheet. Conditions addressing required revisions to the NRI and TCP1 are recommended.

Regulated environmental features including steep slopes, 100-year floodplain, streams, and associated buffers, nontidal wetlands and associated buffers are delineated on-site as the PMA, consisting of 6.52 acres. Potential forest interior dwelling species 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 WCO because the property is greater than 40,000 square feet in size and 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.

Based on the current NRI, the net tract area is 9.63- acres. A deduction for 0.16 acres of SHA dedication, proposed to be deducted as previously dedicated, does not meet criteria to be deducted. The net tract area for calculating the woodland conservation area on this site is 9.83 acres. The revised gross tract area of 9.83-acres is used in calculating the correct woodland conservation requirements for the site.

The site is split-zoned R-R and C-S-C and has a woodland conservation threshold of 18.70 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 4.05 acres of woodlands outside of the floodplain and 0.05 acre of woodlands inside of the floodplain for this project, is 3.63 acres. The TCP1 proposes to meet this requirement with 0.79 acre of on-site preservation, 0.75 acre of on-site afforestation/reforestation, and 2.08 acres of off-site woodland conservation.

Correction to the net tract area previously described results in a woodland conservation of 3.67 acres. Because there are no additional locations for woodland conservation available on-site, the additional requirement will be provided off-site. The worksheet requires revisions to correctly calculate the requirement and demonstrate how the full requirement will be met.

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; this is necessary to ensure the TCP1 is in compliance with Subtitle 25-122(b)(N)(v) and (vi). The TCP1 also requires technical revisions prior to certification.

### **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 revised statement of justification (SOJ) dated December 2, 2019, were submitted with the current application and include a request to remove five (5) specimen trees. The five trees are identified as SP-1, SP-2, SP-4, SP-34, and SP-39 which are a 38-inch red maple, a 34-inch yellow poplar, a 36-inch American beech, a 30-inch yellow poplar, and a 33-inch sycamore, respectively.

Trees SP-1 (38-inch DBH red maple) and SP-2 (34-inch DBH yellow 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 US 301, just outside of the proposed limits of disturbance for a SWM facility. It is noted that yellow 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-4 is a 36-inch American beech located in the central portion of the site and is proposed for removal to accommodate necessary grading and adjacent infrastructure. It has a final condition rating of fair.

Tree SP-34, a 30-inch DBH yellow poplar, is proposed for removal to provide necessary grading to tie-in the proposed development to the steep slopes existing on-site. Yellow poplars are known to be very sensitive to construction within the root zone because of their tuberous roots. It has a final condition rating of 87.5 (good).

Tree SP-39 is a 33-inch DBH sycamore is located near the northern portion of the site and proposed for removal to accommodate proposed lots 50 and 51 and associated infrastructure for the overall development. It has a final condition rating score of 79.5 (good).

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-4, 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 regulated 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-4 is located in the central portion of the site and is proposed for removal in order to accommodate appropriate grading 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 by 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 regulated 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 Plan 2035, 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. An SOJ 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 6,027 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 43 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, except for necessary stormwater outfall and pipe installation. The PMA associated with this site can be found on the Natural Resources Inventory (NRI-182-2017-01) which was prepared by Maser Consulting and approved April 13, 2018.



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 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 while allowing for installation of necessary stormwater management infrastructure.

**Impact 2**, includes 320 square feet of permanent impact to the PMA to allow for the installation of a storm drainpipe.

- a. **Avoidance Justification**—The proposed grading impact is necessary to install infrastructure and support adjacent houses proposed 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 2,663 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 the outfall has been minimized to the extent possible while the limits of disturbance have been minimized to the minimum width that will allow for construction access and installation. The outfall must be placed within the PMA based on the topography of the site.

**Impact 4**, includes 2,147 square feet of permanent impacts to the PMA for the installation of a sanitary sewer line

- a. **Avoidance Justification**—The installation of sanitary sewer line is an essential part of the project. The sewer line 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 while allowing for installation. The limits of disturbance have been reduced to the minimum width that will allow for construction access and sewer installation. The sewer line must be placed within the PMA based on the topography of the site.

**Impact 5**, includes permanent impacts to 53 square feet of PMA for the installation of a stormdrain pipe.

- a. **Avoidance Justification**—The proposed stormdrain pipe 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 limit of disturbance cannot be minimized any further.

**Impact 6** includes impacts to 802 square feet of PMA and stream buffer area for the connection of the storm drainpipe to the existing culvert under MD 382.

- a. **Avoidance Justification**—The area of the limits of disturbance and the proposed storm drain installation have been minimized to the extent possible to properly construct the stormdrain.
- b. **Minimization Justification**—The clearing is the minimum necessary to properly install the storm pipe. The pipe must be placed within the PMA because of the proposed connection to an existing culvert.

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.

- 15. **Urban Design**—Council Bill CB-75-2018 amends the Zoning Ordinance and permits townhouses in both the R-R and C-S-C Zones, subject to three conditions as prescribed in Footnote 120 of Section 27-441(b) and Footnote 68 of Section 27 461(b) respectively. CB-75-2018 also requires DSP approval for both zones and further requires the DSP to include the R-R and C-S-C zoned properties.

In addition, CB-75-2018 specifies that the requirements applicable to a Regional Community in the M-X-T Zone as set forth in Section 27-544 (f)(2) (E)and (G) will be used to review the proposed development, as follows:

**(E) The maximum number of townhouse dwelling units per building group shall be ten (10). No more than thirty percent (30%) of the building groups shall contain nine (9) to ten (10) dwelling units. All other townhouse building groups shall contain no more than eight (8) dwelling units.**

The submitted PPS meets this requirement. No building group has townhouse dwelling units that exceed eight.

**(F) The number of parking spaces required in the core area of the Regional Urban Community are to be calculated by the applicant and submitted for Planning Board approval at the time of Detailed Site Plan approval. The applicant shall submit the methodology, assumptions, and data used in performing the calculations with the Detailed Site Plan. The number of parking spaces within the core area of the Regional Urban Community shall be calculated based on the procedures described in Sections 27-574(b) and (c).**

This requirement will be reviewed for conformance at time of DSP. However, from the layout submitted with this PPS, the applicant does not provide additional parking for visitor. Further review of the parking issue will be carried out at time of DSP.

**(G) End units on townhouse building groups shall be a minimum of twenty (20) feet in width and the minimum building width of a contiguous attached townhouse building group shall be sixteen (16) feet per unit. A variety of townhouse sizes shall be provided, with a minimum gross living space of a townhouse unit shall be 1,500 square feet except that ten percent (10%) of the townhouse units may be reduced to 1,200 square feet.**

Lot 27 is not 20 feet in width at the front lot line, but does widen to 35 feet. The rest of the PPS meets this requirement for the end units because all proposed lots have 20 feet of lot width. A variety of townhouse sizes will be required at time of DSP when the rest of the unit size requirements will be evaluated for conformance.

#### **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.

Specifically, the applicant must provide enough space between the R-R zoned property and the C-S-C Zoned property in order to accommodating a Type C bufferyard at time of DSP in accordance with Section 4.7 Buffering Incompatible Uses of the Landscape Manual.

#### **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**

Although land dedication is recommended to meet the mandatory parkland dedication requirement, given the nature of the housing products proposed with this PPS that will be most likely purchased by young families, staff does have serious concerns about the lack of proper recreational facilities in this development to serve toddlers. Though some recreation facilities are proposed near the boundary between the residential and commercial portions of the site, the PPS does not show sufficient usable open space has been provided in a centrally located part of the subdivision. The provision of a centrally located usable open space with recreational facilities will result in loss of lots. The specific recreational facilities will be reviewed at time of DSP.

### **RECOMMENDATION**

DISAPPROVAL, due to nonconformance with Sections 24-103(a), 24-104(a)(2), and 24-121(a)(5) of the Subdivision Regulations and the lack of compatibility with the character of the existing surrounding low-density residential development pattern.

#### **STAFF RECOMMENDS:**

- Disapproval of Preliminary Plan of Subdivision 4-18016
- 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)