



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

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

Preliminary Plan of Subdivision Preserve at Piscataway-Bailey's Village

4-21030

REQUEST	STAFF RECOMMENDATION
<p>This case was continued from the Planning Board hearing date of May 12, 2022 to June 30, 2022.</p> <p>21 lots and 6 parcels for the development of 21 townhouse dwelling units.</p>	<p>With the conditions recommended herein:</p> <ul style="list-style-type: none">•Disapproval of Preliminary Plan of Subdivision 4-21030•Disapproval of Type 1 Tree Conservation Plan TCP1-009-94-05•Disapproval of a Variation from Section 24-128(b)(7)(A)

Location: At the southwest corner of the intersection of Floral Park Road and Saint Mary's View Road.	
Gross Acreage:	1.65
Zone:	LCD
Prior Zone:	L-A-C
Reviewed per prior Subdivision Regulations:	Section 24-1703(a)
Gross Floor Area:	Not specified
Dwelling Units:	21
Lots:	21
Parcels:	6
Planning Area:	84
Council District:	09
Municipality:	None
Applicant/Address: NVR MS Cavalier Preserve, LLC 11700 Plaza America Drive, Suite 310 Reston, VA 20190	
Staff Reviewer: Eddie Diaz-Campbell Phone Number: 301-952-3665 Email: Eddie.Diaz-Campbell@ppd.mncppc.org	



Planning Board Date:	06/30/2022
Planning Board Action Limit:	07/07/2022
Mandatory Action Timeframe:	140 days
Staff Report Date:	06/16/2022
Date Accepted:	02/18/2022
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Acceptance Mailing:	02/16/2022

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

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-21030
Type 1 Tree Conservation Plan TCP1-009-94-05
Preserve at Piscataway–Bailey's Village

OVERVIEW

The site is located at the southwest corner of the intersection of Floral Park Road and Saint Mary's View Road. The site consists of one lot known as Lot 10, Block E of the Preserve at Piscataway, Bailey's Village, recorded in Plat Book PM 216 page 75. The property has an address of 2501 Saint Mary's View Road. The 1.65-acre property is in the Legacy Comprehensive Design (LCD) Zone and is being reviewed in accordance with the prior Prince George's County Zoning Ordinance and Subdivision Regulations, as required by Section 24-1703(a) of the Subdivision Regulations. Under the prior Zoning Ordinance, the site is in the Local Activity Center (L-A-C) Zone. The site is subject to the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (master plan).

This preliminary plan of subdivision (PPS) proposes to subdivide the property into 21 lots (known as Lots 11–31, Block E) for development of 21 townhouse dwelling units. Six parcels are also proposed, which are to be conveyed to a homeowners association (HOA). These include two HOA open space parcels, two stormwater management (SWM) parcels, an HOA alley parcel, and a "village square" (not to be confused with the adjacent, off-site village green), which is specified on the PPS as being for indoor/outdoor commercial retail. The subject site is currently vacant. The property is the subject of a previous PPS (4-03027) which anticipated commercial retail, office, and multifamily uses on Lot 10. A new PPS is required in order to permit the division of land for the proposed townhouse dwelling lots.

The property is subject to Comprehensive Design Plan CDP-9306-04 (PGCPB Resolution No. 2021-90), which was approved by the Prince George's County Planning Board on July 29, 2021. The original CDP-9306 approved the overall Preserve at Piscataway development, which includes five distinct villages, the northernmost of which is Bailey's Village. A fifth amendment, CDP-9306-05, was filed for approval of an additional 26 townhouse dwelling units for the subject site. The Planning Board approved CDP-9306-05, however, on April 25, 2022, the Prince George's County District Council adopted an order reversing the decision of the Planning Board.

Following the District Council's order reversing CDP-9306-05, the applicant requested continuance of the subject PPS from May 12, 2022 to June 30, 2022, in order to make modifications to the plan that would allow it to be in conformance with CDP-9306-04. Revised plans were submitted on May 25, 2022. The revisions to the plan included deletion of five townhouse lots (bringing the total proposed lots from 26 to 21) and expansion of Parcel Y to create the aforementioned village square parcel.

Staff finds the proposed PPS, as revised, is not in conformance with the approved CDP, as required in accordance with Section 24-119(b) of the Subdivision Regulations. This finding is discussed further in this technical staff report.

The applicant filed a variation request from Section 24-128(b)(7)(A) of the Subdivision Regulations, to allow development of lots in the L-A-C Zone which are served by alleys but front on private open space. This request applies to proposed Lots 25–31. The request is discussed further in the Site Layout finding of this technical staff report.

Staff recommends **disapproval** of the PPS because it does not conform with the approved CDP. Consequently, staff also recommends disapproval of the companion variation request.

SETTING

The subject site is located on Tax Map 142 in Grids E-2 and F-2 and is within Planning Area 84. The site is bound to the north by Floral Park Road, with undeveloped land in the LCD and Agriculture Residential Zones (formerly the Residential Low and Residential-Agricultural Zones, respectively) beyond. The site is bound to the east, south, and west by existing development within Bailey's Village, which like the subject property, is currently zoned LCD and was formerly zoned L-A-C. Specifically, east of the property is Saint Mary's View Road, with townhouse development beyond. West of the property is Bailey's Pond Road, with townhouses beyond. South of the property is an open space parcel known as Parcel T, Block E, which has been developed with gardens, as well as picnic and seating areas. Approximately 325 feet west of the property is the Edelen House Historic Site, which is also within Bailey's Village.

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
Zones	LCD	LCD (reviewed per L-A-C standards)
Use(s)	Vacant	Residential/Temporary Commercial
Acreage	1.65	1.65
Parcels	0	6
Lots	1	21
Dwelling Units	0	21
Variance	No	No
Variation	No	Yes (Section 24-128(b)(7)(A))

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on March 4, 2022. The requested variation from Section 24-128(b)(7)(A) was accepted on March 22, 2022, and

heard at the SDRC meeting on April 1, 2022, as required by Section 24-113(b) of the Subdivision Regulations.

2. **Previous Approvals and Recommendation of Disapproval for this PPS**—On September 14, 1993, the Prince George’s County Council, sitting as the District Council for the part of the Maryland-Washington Regional District in Prince George’s County, adopted Prince George’s County Council Resolution CR-60-1993, approving the 1993 *Subregion 5 Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A, and 85B*. CR-60-1993 rezoned 858.7 acres in the Residential-Agriculture (R-A) Zone to the Residential Low Development (R-L) Zone and 19.98 acres to the L-A-C Zone. CR-60-1993 also approved Basic Plans A-9869 and A-9870, along with 39 conditions and 11 considerations. A new master plan was approved in 2013, the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. The 2013 sectional map amendment retained the same zoning for the subject property.

On March 31, 1994, the Planning Board approved CDP-9306 for the overall development, known then as the Villages of Piscataway, as described in PGCPB Resolution No. 94-98(C)(A), with 36 conditions. The CDP included the entire ±878.9 acres of land zoned R-L and L-A-C, which was to be developed as a golf course community with five distinct villages, one of which was Bailey’s Village. Within the L-A-C-zoned portion of Bailey’s Village specifically, the CDP approved a maximum of 140 dwelling units, as well as 10,000–15,000 square feet of commercial office gross floor area and 20,000 to 30,000 square feet of commercial retail gross floor area. A Type I tree conservation plan (TCPI-009-94) was also approved.

One condition from CDP-9306 is relevant to the review of the subject PPS, as follows:

- 28. The design of Bailey Village should be compatible with the height, scale, building mass, directional expression, roof shapes, building materials and architectural details found in the historic village of Piscataway. Particular attention should be given to the view of Bailey Village from Floral Park Road and Piscataway Road. The view from this area shall not be exclusively the view of large blocks of townhouse units, either fronts or backs.**

Conformance to this condition is discussed in the Urban Design finding of this technical staff report.

On June 7, 2007, the Planning Board approved CDP-9306-01 (PGCPB Resolution No. 07-116), an amendment to increase the maximum permissible height of townhouses within the project to 40 feet.

On October 23, 2008, the Planning Board approved CDP-9306-02 (PGCPB Resolution No. 08-143), an amendment to modify the minimum allowable roof pitch of buildings from 8:12 to 7:12, and to allow rear decks on townhouses to extend up to 10 feet beyond the rear building restriction lines.

On March 10, 2016, the Planning Board approved CDP-9306-03 (PGCPB Resolution No. 16-37), an amendment to modify the previously approved layout of the development, to consolidate the development pod previously shown on the west side of the Potomac Electric

Power Company right-of-way into the development pod on the east side of the right-of-way, to create a new tree preservation bank as part of the tree conservation plan, and to adjust the development standards to allow for smaller lots within the large-lot component (Danville Estates) of the overall project. The overall density of the CDP remained unchanged, as did the layout for Bailey's Village.

On July 29, 2021, the Planning Board approved CDP-9306-04 (PGCBP Resolution No. 2021-90), to amend two conditions relative to design standards governing 14 specific lots in the northern section of Glassford Village.

None of the prior approved CDP amendments altered the development for Bailey's Village approved under the original CDP. CDP-9306-04, the operative amended plan due to the reversal of CDP-9306-05 discussed below, maintains the original CDP-9306 approval of a maximum of 140 dwelling units, 10,000–15,000 square feet of commercial office gross floor area, and 20,000–30,000 square feet of commercial retail gross floor area for Bailey's Village.

On June 17, 2003, the Planning Board approved PPS 4-03027 (PGCPB Resolution No. 03-122) for 794 lots and 66 parcels, subject to 47 conditions. This approval also included up to 16,000 square feet of commercial/retail uses, up to 6,500 square feet of institutional uses, 57 single-family detached, 49 single-family attached, and 34 multifamily dwelling units in the 19.98-acre L-A-C-zoned Bailey's Village area. The PPS specified that 12,000 of the 16,000 square feet of commercial uses would be on the subject property (Lot 10, Block E). PPS 4-03027 was found to conform to CDP-9306. The subject PPS proposes to supersede PPS 4-03027 for Lot 10, Block E only. Additional PPS applications have been approved by the Planning Board for other villages within the Preserve at Piscataway, and those have also superseded PPS 4-03027 for certain areas.

Multiple specific design plans (SDPs) have been approved by the Planning Board, which facilitated the development of the Preserve at Piscataway. SDP-0319, as amended, was approved for the existing development within Bailey's Village.

On January 6, 2022, the Planning Board found that CDP-9306-05 (PGCPB Resolution No. 2022-02) conformed to the requirements of CR-60-1993 and the applicable Basic Plan, A-9870. CDP-9306-05 proposed to develop the subject property with 26 single-family attached dwelling units. CDP-9306-05 was appealed to the District Council and was subject to a public hearing before the Council on March 28, 2022. On April 25, 2022, the District Council issued an order reversing the Planning Board's decision on the grounds that CDP-9306-05 did not conform with the zoning (basic plan) for the property. The Council's decision to reverse the Planning Board's approval of CDP-9306-05 leaves CDP-9306, as amended through -04, as the applicable CDP.

The District Council order reversing CDP-9306-05 (incorporated into the backup of this technical staff report) found that Basic Plan A-9870 required the subject portion of the overall Preserve at Piscataway property to be developed with commercial, retail, office, and/or residential (multifamily) over retail land uses, and that CDP-9306-05 did not conform with the basic plan because it provided for development of only townhouse uses. The order notes that "it is not the previously approved 1993 CDP that conditioned development of this portion of the property with commercial, retail, office, and multifamily land uses. It was the approved 1993 basic plan, as modified, by the District Council, which

the property owner accepted” (page 11). In the District Council’s opinion, amendment of the basic plan is required to permit the development of only townhouse uses.

In accordance with Section 24-119(b), this subdivision must conform to all pertinent requirements of the Zoning Ordinance and to the CDP. The subject property was placed in the L-A-C Zone to accomplish the vision of the master plan to incorporate a mix of residential and commercial land uses into the Preserve at Piscataway project, and the rezoning was accompanied by an approved basic plan (A-9870) that identified the area of the subject property as being for commercial uses. The Zoning Ordinance sets forth that in a comprehensive design zone, the basic plan shall show the types, amount, and general location of land uses proposed (Section 27-478(a)(1)).

The Zoning Ordinance also sets forth that the CDP shall show amounts and locations of land use and the circulation system (Section 27-478(a)(2)). CDP-9306-04 shows building envelopes within the L-A-C Zone for various land uses including “single-family detached,” “single-family attached,” “single-family attached *or* commercial/retail/residential over retail” (emphasis added), and “commercial/retail/residential over retail.” This last category, which is located adjacent to the village green and the main entrance to Bailey’s Village from Floral Park Road on the CDP, must be satisfied with this subdivision in order for a mix of residential and commercial uses to be present and for conformance to the CDP to be achieved. The text of the original CDP-9306 also notes some of the possible commercial uses which should be provided: “A variety of commercial uses are envisioned for this area [Bailey’s Village], such as: office space, restaurants, dry cleaners, specialty stores and other uses which are typically associated with a small town. An area for a major institutional or civic building, such as a church, has also been provided (page 15).”

Staff finds that the L-A-C zoning was put in place for the specific purpose of incorporating residential and commercial development on the subject property. The District Council’s order reversing the Planning Board’s decision to approve CDP-9306-05 found such uses must include commercial, retail, office, and multifamily land uses. Staff does not construe the District Council’s order to mean that commercial, retail, office, and multifamily uses must all be present, but rather, staff finds that the lotting pattern proposed with this PPS must include and accommodate at least one of the above listed uses, such that a mix of residential and commercial uses would be provided, in order to fulfill the purpose of the L-A-C zoning. This would be required in order for the PPS to conform to the approved CDP, as required in accordance with Section 24-119(b).

Findings Leading to Staff Recommendation of Disapproval

With the revised plans submitted on May 25, 2022, the applicant seems to be proposing a commercial use in the HOA-owned village square on Parcel Y. The applicant’s revised statement of justification (SOJ), also submitted on May 25, 2022, offers some description of the proposed use:

“This application proposes to subdivide existing Lot 10 into 21 fee simple townhouses lots, 6 SWM/open space parcels and one community-oriented commercial retail parcel, which is envisioned to provide for seasonal or even[t]- oriented retail with relative minor traffic impact mostly to be attended by the existing and adjacent Piscataway Village communities... The commercial retail, while fronting on Bailey’s, will have parking—to the extent

it is required—in the rear, and its parking will serve as ancillary parking when the retail is not open.” (Page 2).

“While this current preliminary proposes the retail be in an open market square—which can be covered—it is specifically in the range (actually slightly more) than previously found by the Planning Board not to be violative of a finding of conformity.” (Page 13).

“Therefore, the Applicant is proposing to develop and subdivide Lot 10 into townhome lots comparable and consistent with the surround residential community with community-oriented retail that will be sized to served seasonal and limited needs of the existing community and seek to be pedestrian driven.” (Page 13).

Uses are evaluated with a PPS for the purpose of testing for adequate public facilities and ensuring the lotting pattern meets the minimum subdivision and zoning requirements for the intended uses (access, circulations, lot size, etc.). With this PPS, the use was evaluated to determine conformance to the CDP, along with other requirements. Given the information regarding the use which has been provided on the plans and in the applicant’s SOJ, staff offers the following findings which lead to staff’s recommendation of disapproval:

1. Notwithstanding the label on the PPS specifying Parcel Y is for indoor/outdoor commercial retail, based on the applicant’s descriptions above the applicant has not proposed a commercial use. The activities conceptually described by the applicant would only be a temporary use, while the applicant has not described any principal long-term use for the parcel, commercial or otherwise. The PPS therefore does not conform to the requirement of the CDP, and zoning approval, that a commercial use be included in the plan.
2. Notwithstanding the pedestrian-oriented nature of the proposed use, Parcel Y is not configured with an area large enough to support commercial development, including the necessary access, circulation and parking for a commercial use, and therefore the lotting pattern does not support a commercial use.
3. The proposal lacks the required determination of transportation adequacy for a commercial use.

The first and second findings above are explained in further detail in the subsections below. The third finding is explained in the Transportation section of this technical staff report.

1. The applicant has not proposed a commercial use

The description provided by the applicant indicates that the proposed commercial activities carried out by the HOA would be a temporary use. This is because Parcel Y, rather than being in continuous or daily use for commercial purposes, would only be intermittently used for commercial purposes on a seasonal basis, or for events.

Temporary uses may be authorized under Section 27-260 of the Zoning Ordinance, which states that the Prince George’s County Department of Permitting, Inspections and

Enforcement (DPIE) may issue temporary use and occupancy permits for specific temporary structures and uses (Section 27-260(a)); and that temporary uses are only allowed as set forth in the Tables of Uses (for the various zones) (Section 27-260(d)). As set forth in Section 27-215 of the Zoning Ordinance, the Table of Uses for the Comprehensive Design Zone allows several different temporary uses in the L-A-C Zone, including but not limited to “firewood sales” and “Seasonal decorations display and sales,” both of which may fall under the description provided by the applicant. The Table of Uses also specifies that in the L-A-C Zone any “use which can be justified as similar to a listed allowed use” is permitted.

However, in determining whether the applicant’s proposal conforms to the CDP, staff and the Planning Board must consider with their review what the principal, long-term use of Parcel Y is, rather than what the temporary uses are, and whether that long-term use will allow the plan to conform to the basic plan’s requirement for a commercial use. This is because there is no guarantee any temporary use the applicant might propose will actually take place. The Planning Board, in issuing PPS and site plan approvals, sets conditions which must be met prior to the applicant gaining permits for construction. However, once the dwellings are constructed and the parcels are conveyed to the HOA, there is no penalty the Board could or should impose on the HOA should they not seek permits from DPIE to carry out the temporary uses proposed by the applicant at earlier review stages. Even if the HOA did gain permits to carry out a temporary use once, there is no guarantee they would continue supporting the use indefinitely. When Parcel Y is not being used for any of the above-described temporary uses, either between events or once they cease altogether, the parcel will be used for something else. Determining the nature of that “something else”- the long-term, principal use of the parcel- is critical to evaluating the applicant’s proposal and whether the parcel will actually be supporting a commercial use.

With this PPS, the applicant has not specified a principal use for Parcel Y, as they have not described what it will be used for when it is not being used for the described temporary uses. However, the PPS labels Parcel Y as a village square to be dedicated to the HOA, and traditionally, village squares, when not being used for any other specific purpose, are used for circulation and open space between surrounding buildings and uses. The space may also have to be kept open (i.e., free of encumbrances) in order for temporary uses to utilize the parcel, precluding the parcel from being used for long-term uses other than open space. For these reasons, staff finds that in the absence of a description from the applicant, the village square would be best defined, under the Zoning Ordinance, as an HOA open space or common area (Section 27-107.01(a)(50)). Such an open space/common area would be the principal use of the parcel, which would be present on the property and used even when no temporary uses are ongoing. Based on the foregoing, staff finds that the applicant has not proposed a commercial use. They have only proposed a temporary use for Parcel Y, which can also be achieved on any other HOA open space within the project. Staff finds from the information available, that the principal use is an HOA common area/open space, not dissimilar or distinct from any other residential common area within the project. It was not the purpose of the L-A-C rezoning of this site for the commercial component of the development to consist of an open space which may only temporarily be used for commercial purposes, with no guarantee that such temporary uses may ever begin, or, if they did, that they would continue. Because the applicant has not proposed a principal commercial use, the PPS does not conform to CDP-9306-04 and the zoning via Basic Plan A-9870. Therefore, staff recommends disapproval of the PPS due to failure to satisfy the requirement of Section 24-119(b) of the Subdivision Regulations.

2. The lotting pattern is not designed to accommodate a commercial use

If the applicant were to propose a principal long-term commercial use that is not run by the HOA, staff would still not recommend approval of the PPS, because Parcel Y's access is improperly configured for a commercial use.

The applicant has proposed that Parcel Y be accessed primarily by pedestrians, and that any needed vehicular traffic access the parcel through the proposed alley. In the L-A-C Zone, the Planning Board may approve alley access to a commercial use as provided by Section 24-128(b)(7)(A), which states that "in all of the above zones [including the L-A-C Zone]... the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way." Parcel Y has both frontage on and pedestrian access to a public right-of-way, Bailey's Pond Road.

However, Parcel Y's alley access is shared with 21 residential townhomes, and the alley is proposed to be dedicated to the HOA. The shared access between the townhouses and any commercial use would create conflict between the residential and commercial traffic, due to the design of the parking area on Parcel Y. This design features parking spaces which back directly into the alley, and cars backing out of these spaces would conflict with cars backing out of the residential garages. To avoid this issue, the parking area for Parcel Y should instead be provided its own driveway which connects to the street, as required by Section 27-563 of the Zoning Ordinance.

In addition, if Parcel Y were to be conveyed to a long-term commercial user that is not part of the HOA, an easement would be needed over the alley to allow the use access over the private land. The HOA would still be responsible for maintaining the alley, and so would be responsible for maintaining the alley to serve the commercial use. Staff finds that this would not be a reasonable burden on the HOA or the residents which must support it.

Due to the above-described traffic conflict and non-compliance with Section 27-563, and due to the potential need for the HOA to maintain the alley to the benefit of a long-term commercial use, staff does not recommend the Planning Board exercise their ability under Section 24-128(b)(7)(A) to approve any alley which would result in these issues. Because the proposed HOA alley is not appropriate for access to the commercial use, and Section 24-128(b)(7)(A) should therefore not be utilized for it, the applicant would need, in the alternative, to provide direct access from Bailey's Pond Road, as required by Section 24-128(a). However, this would be a third access point in between the two alley endpoints already proposed, which could also cause conflicts between residential and commercial traffic. The needed driveway, and the parking configuration required by Section 27-563, would also take up a significant portion of the already small area of Parcel Y. Staff finds that Parcel Y is not configured with an area large enough to support commercial development, including the necessary access, circulation and parking for a commercial use. Further, the lot and parcel configuration proposed, given the overlapping issues, is not found to conform to the purpose of the L-A-C Zone to encourage and stimulate balanced land development in accordance with Section 27-494(a)(4) of the Zoning Ordinance.

Staff finds that in order for the property to support a commercial use, the commercial parcel would need to have frontage on a public right-of-way and direct access from that

right-of-way in a manner that ensures safe access, or the commercial parcel would need some other means of private access pursuant to Section 24-128(b). Neither such means of access has been proposed, and the lotting pattern would have to be significantly altered in order to support another means of access. Therefore, staff does not find that the proposed lotting pattern supports a commercial use. Staff recommends disapproval of the PPS due to failure to demonstrate adequate site access as required by Section 24-128 of the Subdivision Regulations.

3. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) is briefly discussed below, as well as the application's conformance with the master plan:

Plan 2035

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

Master Plan

The PPS must conform to the master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant recommendations within the plan no longer appropriate, no longer applicable, or the District Council has not imposed the recommended zoning (Section 24-121(a)(5) of the Subdivision Regulations). All master plans duly adopted and approved prior to the date of adoption of Plan 2035 remain in full force and effect until those plans are revised or superseded by subsequently adopted and approved plans (page 270 of Plan 2035).

The development pattern established in the master plan defines the location and quantity of land that should be developed for different uses: residential, employment, commercial, mixed-use, and institutional (page 29 of the master plan). A Future Land Use map (Map IV-1) serves as a guide to where different uses are recommended for future development (page 30). The Future Land Use map recommends commercial land uses on the subject property (page 32). Basic Plan A-9870 and CDP-9306-04 are consistent with the Future Land Use map, as they include a mix of commercial and residential uses within the L-A-C-zoned area. However, as previously discussed, the subject PPS does not include any proposed commercial uses. Therefore, the subject PPS is not consistent with the Future Land Use map of the master plan, as further evidenced by the findings of the District Council in its reversal of the Planning Board's decision in CDP-9306-05. There has been no event that has rendered the land use recommendations inapplicable.

The PPS does not conform to the master plan, including maps and text, as required by Section 24-121(a)(5) of the Subdivision Regulations. Therefore, staff recommends disapproval of the PPS.

4. **Stormwater Management**—An approved SWM concept plan and approval letter (31844-2021-00) have been submitted with this PPS. The concept plan, approved by DPIE, provides that the...." applicant must treat the minimum 1-inch runoff on-site and retrofit the existing Pond No. 2 to provide the 1-inch water quality volume, channel protection volume and 100-year Dam Safety." A SWM fee of \$6,500.00 for on-site attenuation/quality control measures is required. The concept plan proposes to construct two micro-bioretenion facilities. This stormwater approval expires September 16, 2024.

In accordance with Section 24-130 of the Subdivision Regulations, if the PPS is approved, development of the site shall conform with the SWM concept plan and any subsequent revisions to ensure no on-site or downstream flooding occurs.

5. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of Plan 2035; the master plan; the *Land Preservation, Parks and Recreation Plan for Prince George's County*; the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*; and the Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreation and facilities.

Section 24-134 of the Subdivision Regulations requires the mandatory dedication of 0.25 acre of land suitable for active and passive recreation to serve the proposed development, based on the subject site's area and density. However, Section 24-134(a)(3)(D) of the Subdivision Regulations also states that for any re-subdivision of property on which land was previously dedicated, or fee-in-lieu paid, the applicant shall be credited to the extent that the land dedication or fee would otherwise be required upon such subdivision.

This subdivision is exempt from the mandatory dedication requirements because the applicant previously dedicated 100.32 acres of land, adjacent and nearby to this subdivision, as a condition of approval with PPS 4-03027. The provision of land and existing on-site private recreational facilities in the vicinity of the project area meets and exceed the mandatory dedication requirements of Section 24-134.

This property is located approximately 2.8 miles southwest of Hillantrae Community Park, 4.5 miles southwest of Cosca Regional Park, and 4 miles north of Accokeek East Park. The Preserve at Piscataway is also located approximately three miles southeast of Fort Washington Forest Community Center. The master plan indicates that Accokeek contains 260 acres of local parkland and has sufficient parkland to meet the projected needs through 2030. In addition, there are no floating park symbols near the proposed Preserve at Piscataway development.

With Bailey's Village being part of the larger Preserve at Piscataway community, the new residents would join the existing HOA. The Preserve at Piscataway has existing private recreational facilities consisting of a clubhouse with an outdoor swimming pool, a half basketball court, and a playground. The community also contains an additional recreational location that has two outdoor tennis courts and two full basketball courts. In addition, the Preserve at Piscataway has an extensive trail network, tot lots, and open space for active and passive recreation.

6. **Bicycle/Pedestrian**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the master plan, and the Subdivision Regulations to provide the appropriate pedestrian and bicycle transportation recommendations.

Master Plan Pedestrian and Bike Facilities

The MPOT recommends a side path along Floral Park Road, which currently exists. The MPOT provides policy guidance regarding multimodal transportation and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling (pages 9-10), as follows:

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

Policy 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO Guide for the Development of Bicycle Facilities.

The master plan also recommends a dual route along Floral Park Road, and the following policies (page 118):

- Promote pedestrian and bicycle opportunities as part of a multi-modal transportation network.
- Promote and encourage cycling and walking for commuting purposes as an alternative to driving a car.

The PPS includes an unconnected sidewalk abutting the proposed parking area on Parcel Y. Notwithstanding the recommendation of disapproval, standard sidewalk should be provided connecting a proposed parking area to existing sidewalk along the public streets, along Baileys Bond Road in this instance. The PPS also previously showed a shared leadwalk serving Lots 25–31, located on the private lots, which connected to Bailey’s Pond Road and the abutting village green on Parcel T. This common leadwalk is discussed further in the Site Access finding of this technical staff report. There are no other proposed pedestrian and bicycle facilities shown with this application. There are existing facilities abutting the site that were approved with previous applications. An eight-foot-wide side path is constructed along the property frontage of Floral Park Road and a five-foot-wide sidewalk is constructed along the property frontage of Saint Mary’s View Road, which the planned townhomes will front. There is also a five-foot-wide sidewalk along the property frontage of Baileys Pond Road. The access alley to the proposed townhomes is not proposed to include an internal sidewalk, as the homes are planned to be rear loading. These existing and planned facilities support the goals and policies of the MPOT and master plan. If the PPS is approved, at the time of SDP, all sidewalks should be included on the site plan.

7. **Transportation**—In accordance with the Subdivision Regulations, transportation-related findings for adequacy are made for this application, along with any needed determinations related to dedication, access, and general subdivision layout.

As previously discussed, staff has found that the subject PPS does not propose a commercial use, but only temporary uses on Parcel Y which would not require approval by the Maryland-National Capital Park and Planning Commission (M-NCPPC). Nevertheless, Transportation Planning staff has analyzed the applicant’s proposal based on the applicant’s assertion that a commercial use is proposed. The PPS does not include any specific commercial gross floor area for a building which may be analyzed. The applicant has asserted however, in their SOJ, that 14,580 square feet of commercial retail uses are proposed, which is the area of Parcel Y itself. Transportation Planning staff has used this number in their analysis.

The applicant has also asserted in their SOJ that the proposed use of Parcel Y will be primarily pedestrian-driven, with relatively minor traffic impact. However, the SOJ is the only document submitted by the applicant which supports this assertion. No traffic study or other information has been provided to support the assertion that the proposed use will have only a minor traffic impact. While it is possible that the temporary uses proposed by the applicant may have only a minor traffic impact, this is not guaranteed, and if a long-term commercial use is proposed instead, it may have a significant traffic impact.

If the 14,580 square feet of commercial development put forth by the applicant are incorporated, the proposed development results in an increase of potential trips generated from what was previously approved for this site with PPS 4-03027. The original PPS approval allowed 12,000 square feet of retail/office space and 34 multifamily residences. This application would replace this development with 21 townhouse dwellings in addition to the commercial retail on Parcel Y. The trip differences for the site (existing Lot 10) are summarized in the table below:

Trip Generation Summary, Preserve at Piscataway, Lot 10, Block E								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Tot	In	Out	Tot
Current Proposal								
Townhouse residences	21	Units	3	12	15	11	6	17
Commercial Retail	14,580	sq. ft.	53	53	106	100	85	185
Less Pass-By (50 percent AM and PM)			-26	-26	-53	-50	-42	-92
Net retail trips			26	26	53	50	42	92
Total Trips: Current Proposal			29	38	68	61	48	109
Previous Approval								
Multifamily residences	34	Units	3	15	18	13	7	20
Office/retail	12,000	Square feet	7	4	11	54	59	113
Less Pass-By (50 percent AM and PM)			-3	-2	-5	-27	-30	-57
Net office/retail trips			4	2	6	27	29	56
Total Trips: Previous Approval			7	17	24	40	36	76
Difference in Trips: Current Proposal versus Previous Approval					+44			+33

Given that the current proposal as depicted would generate 50 new peak hour trips and would have a net increase of trips compared to the original proposal within Lot 10, Block E, it is determined that the current application would require a new traffic study. The required traffic-related finding of adequacy will need to be analyzed given the increase in new trips and will establish a new trip cap associated with the proposed application.

Master Plan Compliance

The property is served by Floral Park Road, a master planned primary road in the MPOT. The required right-of-way dedication was achieved with a prior PPS. The PPS accommodates this master-planned road; therefore, the PPS would conform with the MPOT and master plan recommendations for vehicular transportation, if approved.

Based on the preceding findings, staff has determined that a traffic analysis is required to assess whether adequate transportation facilities will exist to serve the proposed subdivision, as required in accordance with Section 24-124 of Subdivision Regulations. The study would be needed to further analyze the proposed subdivision's conformity to the MPOT and master plan. Accordingly, staff recommends disapproval of this application, because such a traffic analysis has not been provided.

8. **Site Layout and Access**—The subject application would create 21 single-family attached lots and an HOA open space parcel on which temporary uses are proposed. Pedestrian access to the fronts of the lots would be provided from the north along Floral Park Road, from the east along St. Mary's View Road, and from the south from the existing village green. Pedestrian access to Parcel Y would be provided from Bailey's Pond Road. Vehicular access to Parcel Y and the rears of the lots is proposed to be from a private alley with two points of access onto Bailey's Pond Road.

The use of private alleys to serve development in the L-A-C Zone is permitted, in accordance with Section 24-128(b)(7)(A), with the stipulation that when alleys are used to serve lots the lots must also front on a public street. However, in this case, the applicant has proposed that Lots 25–31 instead front on private open space. Specifically, the lots are proposed to front on the village green (off-site Parcel T). In order to permit the use of alleys to serve these lots, the applicant has requested a variation from Section 24-128(b)(7)(A).

Variation

Section 24-113 of the Subdivision Regulations requires that the following criteria be met for the Planning Board to approve a variation. The criteria are in **bold** text below, while staff's findings for each criterion are in plain text.

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

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

The Subdivision Regulations generally require frontage on public streets to ensure adequate access and public safety. The affected lots will have rear-loaded garage units which allow vehicles to access each unit from the

alley rather than directly from the public street. The proposed alley connects to the public street at each end for full circulation. The design separates vehicular traffic using the alleys from pedestrian traffic to the fronts of the units, thereby reducing the number of sidewalk/driveway crossings, and improving safety for residents and visitors. This better achieves the purpose of the Subdivision Regulations that land be subdivided in such a way that it can be used safely for building purposes without danger to health, safety, and welfare.

On the version of the PPS prior to the revised May 25, 2022 submittal, the site design included a continuous sidewalk crossing private Lots 25–31 which will require the residents using the pedestrian path to pass through each other's lots to reach their own units. It is not clear why this feature was removed from the plan, and staff would recommend if the PPS is approved that this feature be restored, in order to ensure there is clear pedestrian access to the fronts of the lots. In order to ensure the lots cannot impede access to one another, staff also recommends that if the PPS is approved, an access easement to the benefit of Lots 25–31 be granted over the sidewalk to ensure clear passage. This easement should also give access to the HOA for the purpose of maintaining the sidewalk. Such an easement would ensure the sidewalk acts as a common leadwalk that will not detract from the private open space within the front yards of these lots. With these recommendations, granting the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property.

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

Staff finds that the conditions on which the variation is based are unique to this property and are not applicable generally to other properties. Existing Lot 10 already fronts onto three public roadways and an established village green. The lot was previously sized for commercial and multifamily uses, and it remains an unusual undeveloped pocket in an otherwise fully developed subdivision. These conditions are unique limitations that establish the limited parameters in which the applicant must work within, in order to develop the site. Under these conditions, for example, it would be difficult to avoid having part of the development front on the village green, especially since such frontage could be considered highly desirable by homeowners. Staff also finds this alternative design will result in a better overall development than what would be achieved through strict compliance with the Subdivision Regulations.

(3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation.

Staff is not aware of any applicable law, ordinance, or regulation that will be violated if this variation is granted.

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

Staff finds that because of the property's particular physical surroundings and previous approvals, a particular hardship to the owner would result if the strict letter of these regulations is carried out. As stated above, the proposed property and its surroundings have unique physical features, including a village green, and the property is of a shape not originally designed for townhouse development. An alley loop serving outward-facing townhouses is the most efficient way of developing the site so that dwellings will face outward towards the surrounding existing streets and development. Requiring the applicant to reconfigure their design to meet the strict letter of the regulations would confer a particular hardship on the owner given that any reconfiguration would result in a less efficient site layout. Such reconfiguration would also result in a development that lessens achievement of the purposes of the Subdivision Regulations than the alternative proposal.

- (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 property is not in any of the above listed zones. Therefore, this section does not apply.

Staff finds that the site is unique to the surrounding properties, and the variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, but instead will result in a better outcome than could be achieved through strict compliance with the Subdivision Regulations. However, staff must nevertheless recommend disapproval of the variation request, due to the staff recommendation of disapproval for the overall PPS. The variation cannot be approved independently of the PPS.

DPIE Comments on Site Access

On April 8, 2022, DPIE submitted a referral memorandum containing comments on the subject PPS, which has been included in the additional backup. This memo included nine comments, and following staff's review of the comments, staff determined that the following comment may affect the site layout shown on the PPS:

The Single Family attached unit number 30 is very close to the southern entrance. Backing out from this driveway towards Bailey Pond 's Road presents a traffic conflict including vehicles entering to the driveway, pedestrians crossing, and vehicles trying to park on the parking spaces. The

applicant is to reconfigure homes and/or reorient the driveway to address these safety conflicts.

Staff believes that the driveways on Lots 30 and 31 (with Lot 31 being closer to Bailey's Pond Road than Lot 30) may present the traffic conflict DPIE describes. To determine for certain whether a conflict exists, however, the site layout would have to be further evaluated at the time of SDP, when the locations of the driveways are shown on the plan. Transportation planning staff offered several possible ways to address the traffic conflict which could be explored at the time of SDP. These include making the alley a one-way alley, converting the site entrance from full movement to right-in/right-out, and/or moving Lots 25-31 to the east. Other possible means of addressing the conflict may be proposed by the applicant. For the subject PPS, staff would recommend that if the PPS be approved, this issue shall be evaluated at the time of SDP.

9. **Schools**—This PPS has been reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations and Council Resolutions CR-23-2001 and CR-38-2002, *Amended Adequate Public Facilities Regulations for Schools*. The subject property is located within Cluster 6, as identified in the 2020 Update of the *Pupil Yield Factors & Public-School Clusters*. Staff has conducted an analysis and the results are as follows:

Impact on Affected Public School Clusters by Dwelling Units

	Affected School Cluster		
	Elementary School Cluster 6	Middle School Cluster 6	High School Cluster 6
Townhouse (TH) Dwelling Units	21	21	21
Pupil Yield Factor (PYF) – Townhouse (TH)	0.114	0.073	0.091
TH x PYF = Future Subdivision Enrollment	2	2	2
Adjusted Student Enrollment 9/30/19	4,856	2,912	3,490
Total Future Student Enrollment	4,858	2,914	3,492
State Rated Capacity	6,381	3,340	5,206
Percent Capacity	76 %	87 %	67 %

Per Section 24-114.01 of the Subdivision Regulations, School Planning Capacity Analysis, this adequacy analysis was completed for planning purposes to assess the need for new or expanded school facilities; it is not a condition of approval for a subdivision.

Section 10-192.01 of the Prince George's County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$10,180 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia; \$10,180 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$17,451 per dwelling for all other buildings. This project is located outside the Capital Beltway; thus, the surcharge fee is \$17,451 per dwelling. This fee would be paid to DPIE at the time of issuance of each building permit.

The PPS was reviewed for conformance to the master plan recommendations for schools, in accordance with Section 24-121(a)(5) and Section 24-122 of the Subdivision Regulations, and found to be in conformance, as described in greater detail in the Public Facilities finding below.

10. **Public Facilities**—In accordance with Section 24-122.01 of the Subdivision Regulations, water and sewerage and police facilities will be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated March 1, 2022 (Perry to Diaz-Campbell), provided in the backup of this technical staff report, and incorporated by reference herein. Fire and rescue adequacy requires additional discussion, as provided below.

Fire and Rescue Facilities- Residential

This PPS was reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) of the Subdivision Regulations. The subject property is served by the Accokeek Volunteer Fire/EMS Station Co. 824, located at 16111 Livingston Road in Accokeek. For residential development, the response time standard established by Section 24-122.01(e) of the Subdivision Regulations is a maximum of seven-minutes travel time from the first due station.

Prince George's County Fire and EMS Department representative, James V. Reilly, stated in writing (via email) that as of February 22, 2022, the subject project fails the seven-minute travel time test from the first due station, Accokeek VFD Co. 824. Therefore, mitigation will be required prior to the issuance of permits unless a waiver of the Public Safety Facilities mitigation requirement is issued, in accordance with Section 24-122.01(f) of the Subdivision Regulations (Prince George's County Council Bill CB-20-2020 enacted July 21, 2020). The mitigation fee to be assessed is \$1,741 per dwelling unit. This fee is subject to adjustment on an annual basis, in accordance with the percentage change in the Consumer Price Index for All Urban Consumers. The actual fee to be paid will be determined at the time the grading permit is issued.

At this time, mitigation has not been waived; therefore, the applicant previously entered into and submitted a ratified Public Safety Mitigation Fee agreement with the M-NCPPC-Prince George's County Planning Department for 26 dwellings, in accordance with the *Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure* (CR-078-2005). The agreement is included in the backup of this technical staff report. The agreement states that "notwithstanding the number of dwelling units, per dwelling unit fees and total fee payments noted in this document, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factors." The existing agreement is therefore sufficient for the 21 units now proposed, and the applicant would only be required to pay a fee for 21 units.

In order to alleviate the negative impact on fire and rescue services, due to the inadequate service response discussed above, the Fire Department recommends that a fire suppression system be installed in all residential structures, in accordance with National Fire Protection Association Standard 13D and all applicable Prince George's County laws. Since this is a building code requirement, no condition to this effect is necessary as part of this PPS.

The Fire Department reported that there is adequate equipment to meet the standards stated in Section 24-122.01(e)(1)(C) of the Subdivision Regulations.

Fire and Rescue Facilities- Commercial

Notwithstanding staff's finding that the applicant has not proposed a commercial use, staff performed an analysis to determine whether the application would meet fire and rescue adequacy for a commercial use.

Per Section 24-122.01(d)(1)(A) of the Subdivision Regulations, a 5-minute *total response time* is recognized as the national standard for Fire/EMS response times. The five-minute *total response time* arises from the 2020 Edition of the National Fire Protection Association (NFPA) 1710 Standards for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments. This standard is being applied to the review of nonresidential subdivision applications. Per the National Fire Protection Association (NFPA) 1710, Chapter 4, 240 seconds (4 minutes) or less *travel time* is the national performance objective.

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

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

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

According to NFPA 1710, Chapter 4 Organization:

4.1.2.1 The fire department shall establish the following performance objectives for the first-due response zones that are identified by the authority having jurisdiction (AHJ):

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

Prince George's County Fire and EMS Department representative, James V. Reilly, stated in writing (via email) that as of May 31, 2022, the subject project fails the four-minute travel time test from the closest Prince George's County Fire/EMS Station Accokeek Volunteer Fire/EMS Co. 824 when applying the national standard and [NFPA 1710.4.1.2.1 (3)].

Therefore, this property would fail to meet an associated total response time under five-minutes from the closest Fire/EMS Station.

If the PPS were recommended for approval, staff would recommend that prior to issuance of a use and occupancy permit for any non-residential building, the applicant and the applicant's heirs, successors, and/or assignees shall contact the Prince George's County Fire/EMS Department to request a pre-incident Emergency Plan for the facility, install and maintain a sprinkler system that complies with NFPA 13 standards, install and maintain automated external defibrillators in accordance with the Code of Maryland Regulations, and install and maintain hemorrhage kits next to fire extinguishers. For any temporary non-residential uses proposed, the applicant will need to seek a temporary use permit from DPIE. DPIE has the approving authority for temporary uses, and it would be their responsibility to ensure that any needed safety measures are in place for the temporary use proposed. Temporary uses do not require approval by M-NCPPC.

Master Plan Conformance with Public Facilities

This PPS was reviewed for conformance to the master plan recommendations for public facilities in accordance with Sections 24-121(a)(5) and 24-122. The master plan provides goals and policies related to public facilities (pages 129–143). The proposed development aligns with the master plan goal of ensuring “needed public facilities are provided at locations that effectively and efficiently serve the existing and future population.” The plan conforms to the policies and appropriate strategies for schools, libraries, public safety, parks and recreation, solid waste management/recycling, and water and sewer service. There are no police, fire and emergency medical service facilities, schools, parks, or libraries proposed on the subject property. The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities; however, there are no recommendations of this plan that currently affect the site.

11. **Use Conversion**—The total development included in this PPS is proposed to be 21 townhouse dwellings in the L-A-C Zone and 1 common area parcel. If the PPS were recommended for approval, any substantial revision to the mix of uses on the subject property proposed, that affects Subtitle 24 adequacy findings, as set forth in the resolution of approval and reflected on the PPS, shall require approval of a new PPS, prior to approval of any building permits. It is noted that nonresidential development consistent with CDP-9306-04 and PPS 4-03027 may still be developed on this site if the subject PPS is not approved.
12. **Public Utility Easement**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public company, the subdivider shall include the following statement in the dedication documents recorded on the final plat:

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

The standard requirement for public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on the existing public rights-of-way of Floral Park Road to the north, Saint Mary's View Road to the east, and Bailey's Pond Road to the west. The PPS shows the required PUEs along these streets.

Section 24-128(b)(12) of the Subdivision Regulations requires a 10-foot-wide PUE along one side of all private streets, not including alleys. The PPS includes a new private alley to serve the new lots but does not include any private streets.

13. **Historic**—The subject portion of Bailey’s Village is adjacent to the Edelen House (Historic Bailey’s Plantation), a County designated historic site (84A-023-06). Bailey’s Village was required to be designed to be compatible with the adjacent historic site as stated in Condition 10 of PGCPB Resolution No. 94-98(C)(A) of CDP-9306:

10. **The L-A-C portion of the project known as Bailey's Village shall be designed so as to be compatible with the adjacent Historic Bailey's Plantation (Edelen House) and the historic village. Specific details pertaining to the building mass, height, scale, and construction materials and details shall be provided as part of the SDP submission.**

A Phase I archeology survey was conducted on the subject property in 1997. No archeological sites were identified in the area within the subject proposal and no additional archeological investigations are recommended.

The subject 1.65-acre parcel does not contain and is not adjacent to any designated Prince George’s County historic sites or resources. However, staff determined that the proposed new construction may be visible from the Edelen House Historic Site (84A-023-06). Therefore, staff recommended that the applicant provide a sightline study to determine whether the new construction would be visible from the Edelen House Historic Site. In response, the applicant provided a cross section that includes the Edelen House Historic Site and existing and proposed development. Staff finds that the applicant's exhibit demonstrates the intervening development between the Edelen House Historic Site and the proposed new development will preclude the new development from being visible from the historic site. Staff also finds that the proposed revisions to the plan submitted on May 25, 2022 do not affect this finding.

The master plan includes goals, policies, and strategies related to historic preservation and archaeology (pages 155–159). Staff finds that, based on currently available information, the proposed development will be compatible with the surrounding historic sites and resources. Therefore, the PPS conforms to the policies and the relevant strategies of the master plan related to historic preservation. The compatibility of the development with the surrounding historic sites and resources would be further evaluated at the time of SDP, if this PPS were recommended for approval. The PPS conforms to the policies and the relevant strategies of the master plan related to archaeology as there are no archaeological sites on the property.

14. **Environmental**—The subject PPS and TCP1-009-94-05 were received on February 18, 2022. Comments were provided in an SDRC meeting on February 18, 2022. Revised plans were received on March 11, 2022.

The following applications and associated plans for the subject site applicable to this case were previously reviewed:

Review Case Number	Associated Tree Conservation Plan Number	Authority	Status	Action Date	Resolution Number
A-9869	N/A	District Council	Approved	9/14/1993	CR-60-1993
A-9870	N/A	District Council	Approved	9/14/1993	CR-60-1993
4-94017	TCPI-009-94-01	Planning Board	Approved	6/24/1994	94-213
SDP-9804	TCPII-098-99	Planning Board	Approved	2/14/2002	96-301
4-03027	TCP1-009-94-02	Planning Board	Approved	5/29/2003	03-122
SDP-0320	TCPII-048-04	Planning Board	Approved	6/10/2004	04-133
CDP-9306	TCPI-009-94	Planning Board	Approved	10/28/2004	94-98(A)
SDP-0320-01	N/A	Staff Level	Approved	8/31/2005	N/A
SDP-0320-02	TCPII-048-04-01	Planning Board	Approved	11/14/2013	13-131
CDP-9306-03	TCPI-009-94-03	Planning Board	Approved	3/10/2016	16-37
CDP-9306-04	N/A	Planning Board	Approved	7/8/2021	2021-90
NRI-037-2021	N/A	Staff	Approved	5/3/2021	N/A
CDP-9306-05	TCPI-009-94-04	District Council	Pending	Pending	2022-02
4-21030	TCPI-009-94-05	Planning Board	Pending	Pending	Pending

Grandfathering

The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 that came into effect on September 1, 2010, because the application is for a new PPS.

Site Description

The overall Preserve at Piscataway subdivision consists of a gross tract area of 878.90 acres, including 79.80 acres of 100-year floodplain, resulting in a net tract area of 799.10 acres in the R-L and L-A-C Zones. The site is in Planning Area 84, Subregion 5, primarily south of Floral Park Road and west of Danville Road.

This PPS is focused on a 1.65-acre section of The Preserve at Piscataway called Bailey's Village. The site is located at the southwest corner of Floral Park Road and Saint Mary's View Road and is undeveloped. Within the boundaries of the PPS, there are no streams, wetlands, 100-year floodplain, steep slopes, woodlands, specimen trees, or rare, threatened, or endangered species on-site. The subject property is a maintained grass field. The portion of Floral Park Road that is fronting the site is identified as both a primary collector roadway and a historic and scenic roadway. According to the United States Department of Agriculture, Natural Resources Conservation Service Web Soil Survey, the predominate soils found within the boundaries of the PPS Bailey's Village area are two types of Grosstown gravelly silt loam (0–2 percent slopes and 5–10 percent slopes). Marlboro clay and Christiana complexes are not found on or near this application area. The site is in Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035. According to the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George's Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan), the entire area is within an Evaluation Area.

Conformance with Applicable Plans—Environmental

Master Plan Conformance

The section on Environmental in the master plan contains eight (8) sub-sections (A–H), each of which contain policies and strategies. The text in **bold** is the text from the master plan and the plain text provides comments on plan conformance.

A. Green Infrastructure

- **Implement the master plan’s desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.**
- **Ensure the new development incorporates open space, environmental sensitive design, and mitigation activities.**
- **Protect, preserve, and enhance the identified green infrastructure network.**

The geographical area of the PPS is in the Bailey’s Village section of the Preserve at Piscataway and consists of a 1.65-acre area that has been graded from previous approvals. This area is identified as being totally within the Evaluation Area of the Green Infrastructure Plan network. Currently, this application area is entirely maintained grass with no woodlands, trees, or regulated environmental features.

B. Water Quality, Stormwater Management, and Groundwater

- **Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.**
- **Protect and restore groundwater recharge areas such as wetlands and the headwater areas of streams.**

The SWM design is required to be reviewed and approved by DPIE to address surface water runoff issues, in accordance with Subtitle 32, Water Quality Resources and Grading Code. This requires that environmental site design be implemented to the maximum extent practicable. The site has an approved SWM Concept Plan, 31844-2021-00, which was submitted with the subject application. The concept plan states that the” ...applicant must treat the minimum 1-inch runoff on-site and retrofit the existing Pond No. 2 to provide the 1-inch water quality volume, channel protection volume and 100-year Dam Safety.”

No regulated environmental features are proposed to be impacted with this application.

C. Watersheds

- **Ensure that, to the fullest extent possible, land use policies support the protection of the Mattawoman Creek and Piscataway Creek watersheds.**
- **Conserve as much land as possible, in the Rural Tier portion of the watershed, as natural resource land (forest, mineral, and agriculture).**
- **Minimize impervious surfaces in the Developing Tier portion of the watershed through use of conservation subdivisions and environmentally sensitive design and, especially in the higher density Brandywine Community Center, incorporate best stormwater design practices to increase infiltration and reduce run-off volumes.**

This application is for the construction of a townhouse development within an existing residential subdivision. The project is located within a previously graded area surrounded by existing development. Currently, this application area is entirely within a maintained grass area with no woodlands, trees, or regulated environmental features. The main stem of Piscataway Creek is located off-site approximately 1,000 feet to the north across Floral Park Road. This PPS is part of a larger development known as The Preserve at Piscataway. The woodland conservation requirement was met with implementation of the previously approved development.

The subject property is located within the Environmental Strategy Area 2, which was formerly the developing tier. All the proposed development will be outside the environmentally sensitive areas.

D. Chesapeake Bay Critical Area

- **Enhance the County's Critical Area protection program in response to local, regional, and statewide initiatives and legislative changes.**

The subject property is not located in the Chesapeake Bay Critical Area.

E. Air Quality and Greenhouse Gas Emissions

- **Reduce air pollution through transportation demand management (TDM) projects and programs.**
- **Promote "climate-friendly" development patterns through planning processes and land use decisions.**
- **Increase awareness of the sources of air pollution and greenhouse gas emissions.**

Air quality is a regional issue that is currently being addressed by the Council of Governments.

Conformance with the Countywide Green Infrastructure Plan

According to the Green Infrastructure Plan, the entire site is within the Evaluation Area within the designated network of the plan. The conceptual design, as reflected on the PPS and TCP1, is in keeping with the goals of the Green Infrastructure Plan and focuses development outside of the most sensitive areas of the site. A detailed evaluation of major green infrastructure components has been provided in the Master Plan Conformance section of this finding.

Environmental Review

Natural Resources Inventory Plan

An approved Natural Resources Inventory (NRI-037-2021) was submitted with the application. This NRI was a requirement for the subject PPS application area and not the entire Preserve at Piscataway. The site was graded and cleared when the original development occurred. This overall development contains natural features that were required to be protected under Section 24-130, at the time of first PPS review, and these were addressed with appropriate development applications. The current PPS application does not include regulated environmental features (streams, wetlands, floodplain, steep slopes), woodlands, or specimen trees, only maintained lawn.

No additional information is required regarding the NRI.

Woodland Conservation

This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the property is greater than 40,000 square feet in size and contains more than 10,000 square feet of existing woodland. This application area was part of previously approved TCP1 and Type 2 tree conservation plans (TCP2). A TCP1 revision was required for review of PPS 4-21030.

TCPI-009-94 was approved with CDP-9306, and updated with PPS 4-94017, PPS 4-03027, CDP-9306-03, and CDP-9306-05. The revision to the TCP1 accompanying CDP-9306-05 was resubmitted for review with the current application as TCP1-009-94-05. The subject PPS application area is part of an overall approved TCP2 plan area that was approved, and the woodland conservation requirement has been met. No woodlands are located within the subject PPS application area.

Notwithstanding that all requirements for the TCP1 have been met, staff recommends disapproval of TCP1-009-94-05 due to the recommendation of disapproval for the accompanying PPS application. The TCP1 cannot be approved independently of the PPS. If the PPS and TCP1 were recommended for approval, the TPC1 would need to be revised to show the updated lotting pattern on the PPS, including 21 lots and the expanded Parcel Y.

Mount Vernon Viewshed Area of Primary Concern

The property subject to the current application is entirely located in the Mount Vernon Viewshed Area of Primary Concern, which has been delineated as an evaluation tool for the protection of the Mount Vernon Viewshed. Properties located within the Area of Primary Concern are evaluated for the location and elevation of the subject property, the elevation of structures proposed on the site, and the potential for vegetative management and screening because of the associated viewshed from the front porch of Mount Vernon as the viewing point.

In November 2021, a viewshed analysis was conducted by M-NCPPC staff on the proposed Bailey's Village development. A maximum building elevation of 39.9 feet and a ground base of 44.33 feet were provided by the applicant for the finished building heights of the various townhouse locations. The viewshed analysis determined that the proposed townhouse finished height elevation is significantly lower than any height that would impact the viewshed. The townhouses would have to be over 150 feet high to impact or be visible from Mount Vernon.

15. **Urban Design**—Townhouses have been previously developed in the L-A-C-zoned portion of Bailey's Village; however, under A-9870 and CDP-9306-04, the subject site is required to be developed with multifamily, commercial, retail, and office uses. Notwithstanding the recommendation of disapproval, this development would need to show conformance with applicable Zoning Ordinance regulations at the time of SDP, including but not limited to the following:

- Section 27-494, L-A-C Zone
- Section 27-515, Uses (L-A-C Zone)
- Section 27-496, Regulations (L-A-C Zone)
- Part 11, Off-street Parking and Loading, and
- Part 12, Signs

Conformance with Previous Approvals

This PPS is not in conformance with the prior approvals, as discussed in the findings above. The property is the subject of prior approvals, including CR-60-1993, which rezoned the overall Preserve at Piscataway project from the R-A Zone to the R-L and L-A-C Zones, in September of 1993. The property is also the subject of CDP-9306 and its approved amendments, none of which have affected the approved uses within Bailey's Village. Notwithstanding the findings of nonconformance with the CDP, Condition 28 of CDP-9306 is applicable to the review of this PPS, as follows:

28. **The design of Bailey Village should be compatible with the height, scale, building mass, directional expression, roof shapes, building materials and architectural details found in the historic village of Piscataway. Particular attention should be given to the view of Bailey Village from Floral Park Road and Piscataway Road. The view from this area shall not be exclusively the view of large blocks of townhouse units, either fronts or backs.**

The applicant has indicated that the lots proposed with the PPS are large enough to accommodate additional treatments, to allow for site improvements and architectural details that are consistent with the historic village of Piscataway. In addition, the lot layout will not provide views exclusively comprised of large blocks of townhouse units. Notwithstanding the recommendation of disapproval, the architectural and site treatments of the units in this area would be further evaluated at the time of SDP.

Conformance with the Prince George's County Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area or disturbance and require a grading permit. The property is in the LCD Zone, and per Section 25-128 of the Prince George's County Code, the property must meet the minimum tree canopy coverage (TCC) threshold for the prior zoning. Under the prior zoning, the property is in the L-A-C Zone and will require 10 percent of gross tract area to be covered by tree canopy. Compliance with the TCC requirements is evaluated at the time of SDP review.

Conformance with the requirements of the Prince George's County Landscape Manual

As this application is reviewed under its prior L-A-C zoning, pursuant to Section 27-124.03 of the prior Zoning Ordinance, the proposed development is subject to the 2010 *Prince George's County Landscape Manual*, including Section 4.1, Residential Requirements, Section 4.6, Buffering Development from Streets, and Section 4.9, Sustainable Landscaping Requirements. The layout shown includes lots that front on Floral Park Road, which is designated as a historic roadway and requires a 20-foot-wide buffer planted with a minimum of 80 plant units per 100 linear feet of frontage, excluding driveway openings. Conformance with the applicable landscape requirements is determined at the time of SDP review. However, staff noted that the outward orientation of the townhomes and the location of Parcel Y create a layout that would expose the rear of the townhomes to Bailey's Pond Road, and so, require additional screening. The plan would further require a bufferyard between the incompatible commercial and residential uses if Parcel Y is determined to contain a commercial use. However, Parcel Y is not large enough accommodate the required landscape strip and bufferyard, given the multiple other constraints already discussed in this technical staff report, which would be necessary and conducive to the commercial use of Parcel Y.

Other Urban Design Considerations

The parking spaces shown on Parcel Y are proposed to support the temporary uses on that parcel. No additional parking spaces are proposed for visitors to the residential units. The applicant's SOJ states the parking spaces would be ancillary parking when not in use for commercial purposes. However, this potentially creates a situation where visitors to the residences and visitors to Parcel Y would compete for parking spaces when the parking is in use for commercial purposes. In addition, if a long-term commercial use is proposed on Parcel Y, that business may prohibit residential use of the parking spaces on its parcel. In compact townhouse developments like this one, the Planning Board commonly requires up to 10 percent more parking than that currently required by the Zoning Ordinance. It is recommended that additional parking spaces for residential guests be provided, to the extent practical, which may result in the loss of some lots. Notwithstanding the recommendation of disapproval, this issue would be further reviewed with a future SDP.

RECOMMENDATION

DISAPPROVAL, due to failure to satisfy the requirements of Section 24-119(b) and Section 24-121(a)(5) of the prior Subdivision Regulations, failure to demonstrate adequate site access as required by Section 24-128, and failure to demonstrate transportation adequacy in accordance with Section 24-124 of the prior Subdivision Regulations.

STAFF RECOMMENDS:

- Disapproval of Preliminary Plan of Subdivision 4-21030
- Disapproval of Type 1 Tree Conservation Plan TCP1-009-94-05
- Disapproval of a Variation from Section 24-128(b)(7)(A)