



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

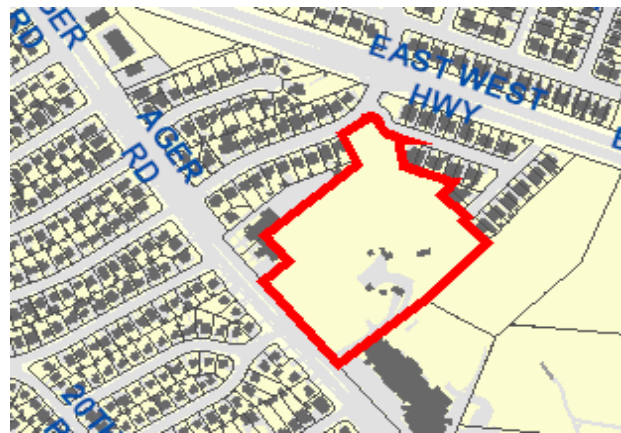
Note: Staff reports can be accessed at <https://www.mncppc.org/883/Watch-Meetings>

Preliminary Plan of Subdivision The Herman Multi-Family Apartments

4-22012

REQUEST	STAFF RECOMMENDATION
2 parcels for development of 145 multifamily dwelling units	With the conditions recommended herein: <ul style="list-style-type: none">• Approval of Preliminary Plan of Subdivision 4-22012• Approval of Type 1 Tree Conservation Plan TCP1-015-2023• Approval of a Variation from Section 24-121(a)(3)• Approval of a Variance to Section 25-122(b)(1)(G)

Location: On the north side of Ager Road, approximately 2,500 feet southeast of its intersection with MD 410 (East-West Highway)	
Gross Acreage:	9.51
Zone:	RSF-65/RSF-A
Prior Zone:	R-55/R-35
Reviewed per prior Subdivision Regulations:	Section 24-1900
Gross Floor Area:	N/A
Dwelling Units:	145
Lots:	0
Parcels:	2
Planning Area:	65
Council District:	02
Municipality:	N/A
Applicant/Address: Community Housing Initiative Inc. 1123 Ormond Court McLean, VA 22101	
Staff Reviewer: Eddie Diaz-Campbell Phone Number: 301-952-3665 Email: Eddie.Diaz-Campbell@ppd.mncppc.org	



Planning Board Date:	01/18/2024
Planning Board Action Limit:	02/14/2024
Mandatory Action Timeframe:	140 days
Staff Report Date:	01/08/2024
Date Accepted:	09/12/2023
Informational Mailing:	11/08/2022
Acceptance Mailing:	09/11/2023
Sign Posting Deadline:	12/19/2023

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.

Table of Contents

OVERVIEW	3
SETTING	4
FINDINGS AND REASONS FOR STAFF RECOMMENDATION.....	4
1. Development Data Summary	4
2. Previous Approvals.....	5
3. Community Planning.....	6
4. Stormwater Management.....	10
5. Parks and Recreation	10
6. Transportation.....	12
7. Public Facilities.....	16
8. Public Utility Easement.....	17
9. Historic.....	17
10. Environmental	17
11. Urban Design	29
12. Noise.....	31
13. Community Feedback	32
RECOMMENDATION	32

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-22012
Type 1 Tree Conservation Plan TCP1-015-2023
Variation from Section 24-121(a)(3)
Variance to Section 25-122(b)(1)(G)

OVERVIEW

The site is located on the north side of Ager Road, approximately 2,500 feet southeast of its intersection with MD 410 (East-West Highway). The property totals 9.51 acres and consists of one parcel known as Parcel A of Mount Zion Pentecostal Church, which is recorded in Plat Book REP 206 page 83 of the Prince George's County Land Records. The property is in the Residential, Single-Family-65 (RSF-65) and Residential, Single-Family Attached (RSF-A) Zones; however, this application has been submitted for and reviewed under the applicable provisions of the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1900 of the Subdivision Regulations. Under the prior Zoning Ordinance, the site was within the One-Family Detached Residential (R-55) and One-Family Semidetached and Two-Family Detached Residential (R-35) Zones, which were effective prior to April 1, 2022. The property is subject to the 1989 *Approved Langley Park-College Park-Greenbelt Master Plan* (master plan).

The site is the subject of prior preliminary plan of subdivision (PPS) 4-04089, which approved one parcel for development of a 19,283-square-foot church. The church was never constructed and is now no longer proposed. The applicant is proposing construction of a 145-unit multifamily building on the subject property and to divide the property into two parcels. A new PPS is required for the division of land, the construction of multiple dwelling units, and the substantial change of use from that evaluated under the prior PPS.

The subject PPS qualifies for review under the prior Zoning Ordinance and prior Subdivision Regulations because it meets the requirements of Section 24-1904 of the current Subdivision Regulations. In accordance with Section 24-1904(a), a pre-application conference was held on June 6, 2022. In accordance with Section 24-1904(b), the applicant provided a statement of justification (SOJ) dated February 2, 2023, explaining why they were requesting to use the prior regulations. In accordance with Section 24-1904(c) of the Subdivision Regulations, this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2022-028.

The site features several barns and sheds, all of which will be razed. Of the two parcels proposed, Parcel 1 is proposed to be developed with the multifamily building. Parcel 2 is proposed to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC), to add onto the stream valley parkland, located on abutting Heurich Park, pursuant to

Section 24-134(a)(4) of the prior Subdivision Regulations. This conveyance is discussed further in the Parks and Recreation finding of this technical staff report.

The project is subject to the provisions of Prince George's County Council Bill CB-69-2020, which was adopted by the Prince George's County Council on November 17, 2020. This council bill amended Section 27-441 of the prior Zoning Ordinance to permit multifamily dwellings in the prior R-55 Zone subject to certain criteria, which are met by the subject site. The site's conformance to these criteria is discussed further in the Community Planning finding of this technical staff report.

The applicant filed a request for a variation from Section 24-121(a)(3) of the Subdivision Regulations in order to permit one direct access driveway from Parcel 1 to Ager Road, which is an arterial roadway. This request is discussed further in the Transportation Planning finding of this technical staff report.

The applicant filed a request for a variance to Section 25-122(b)(1)(G) of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO), to allow the removal of seven specimen trees. This request is discussed further in the Environmental finding of this technical staff report.

Staff recommend **APPROVAL** of the PPS, with conditions, **APPROVAL** of the variation, and **APPROVAL** of the Subtitle 25 variance, based on the findings contained in this technical staff report.

SETTING

The subject site is located on Tax Map 41 in Grid D-2, and it is within Planning Area 65. Northeast of the site are semidetached dwellings in the RSF-A Zone (prior R-35 Zone), with MD 410 beyond. Southeast of the site are Heurich Park, in the Reserved Open Space (ROS) Zone (prior R O-S Zone), and the Rosa L. Parks Elementary School, in the RSF-65 Zone (prior R-55 Zone). Southwest of the site is Ager Road, with single-family detached dwellings in the RSF-65 Zone (prior R-55 Zone) beyond. Northwest of the site is the Ager Road Methodist Church (unrelated to the church previously proposed on the subject property), in the RSF-65 Zone (prior R-55 Zone), with single-family detached dwellings fronting on 23rd Avenue, also in the RSF-65 Zone (prior R-55 Zone), beyond.

The property is split-zoned between the RSF-65 and RSF-A Zones (formerly the R-55 and R-35 Zones, respectively), and the portion of the property proposed to be developed is entirely within the former R-55 Zone, along Ager Road. Northern and northeastern portions of the property, formerly in the R-35 Zone, have frontage on 23rd Avenue, Rittenhouse Street, and 24th Place; however, these areas are encumbered with environmental features, and no access to the development is proposed from these streets.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	EVALUATED
Zones	RSF-65/RSF-A	R-55/R-35
Use(s)	Vacant/vehicle storage	Residential multifamily
Acreage	9.50	9.50
Parcels	1	2
Lots	0	0
Dwelling Units	0	145
Subtitle 25 Variance	No	Yes (25-122(b)(1)(G))
Variation	No	Yes (24-121(a)(3))

The subject PPS 4-22012 was accepted for review on September 12, 2023. Pursuant to Section 24-119(d)(2) of the prior Prince George's County Subdivision Regulations, the PPS was reviewed by the Subdivision and Development Review Committee (SDRC), which held a meeting on September 29, 2023, at which comments were provided to the applicant. Pursuant to Section 24-113(b) of the prior Prince George's County Subdivision Regulations, the request for a variation from Section 24-121(a)(3) was submitted on September 26, 2023, and was also reviewed at the SDRC meeting on September 29, 2023. Revised plans were received on December 7, 2023, and December 15, 2023, which were used for the analysis contained herein.

2. **Previous Approvals**—The property is subject to PPS 4-04089, which was approved by the Planning Board on October 7, 2004 (PGCPB No. 04-235) for development of one parcel to support a 19,283-square-foot church. The property subsequently received final plat approval in accordance with the PPS. However, the subject PPS 4-22012 will supersede the prior PPS in its entirety, if approved, and a new final plat will be required.

Some of the conditions of the prior PPS are similar to the conditions applicable to the subject PPS. In addition, other conditions of the prior PPS, which are relevant to the subject PPS, are discussed here:

3. **Prior to the issuance of building permits the applicant shall submit evidence from the Health Department that the trash found on the site and in the stream has been removed and properly stored or discarded.**

Though the property received final plat approval, in accordance with the prior PPS, the proposed church building was never constructed. Aerial imagery indicates that there are still large amounts of trash on the site. This condition should therefore be carried forward and made a condition of the subject PPS.

4. **Any abandoned well or septic system shall be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department.**

The site features existing structures which are proposed to be razed, which may be on well or septic systems. The proposed multifamily building is to be served by public water and sewer, as shown on the PPS. Therefore, any existing well or septic systems on the property will be abandoned and should be properly pumped, backfilled and/or sealed, in accordance with the Code of Maryland Regulations (COMAR) 26.04.04. This condition should be carried forward in modified form and

made a condition of the subject PPS. Any abandoned well or septic systems should be treated in this manner, prior to approval of a rough grading permit for the site.

5. **Any existing building being served by private well and septic systems will be connected to the public systems upon availability or the applicant shall obtain a waiver from the Department of Environmental Resources, Programs and Planning.**

None of the existing buildings on the site are proposed to remain, and the proposed multifamily building will be served by public water and sewer. This condition therefore does not need to be carried forward.

11. **The final plat shall carry a note that access to this site is denied from 23rd Avenue, Rittenhouse Street, and 24th Street.**

Access to the multifamily building from these streets is not supported due to the impacts such access would have on the environmental features in the northeast portion of the property. However, with this PPS, the area adjacent to these streets is proposed to be conveyed as a separate parcel (Parcel 2) to the Prince George's County Department of Parks and Recreation (DPR). To avoid landlocking Parcel 2, and to allow DPR access to the parcel should they need it at a future time, this condition should not be carried forward.

3. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the master plan is evaluated, as follows:

Plan 2035

This application is located in the Established Communities Growth Policy Area. Established Communities are most appropriate for context-sensitive infill and low- to medium-density development. Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met (page 20).

Master Plan

The master plan recommends medium-suburban and low-urban land uses on the subject property. The subject property falls within the Chillum-Takoma Park subcommunity.

According to Plan 2035, all planning documents which were duly adopted and approved prior to the date of adoption of Plan 2035, remain in full force and effect, except for the designation of tiers, corridors, and centers, until those plans are revised or superseded. Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, a PPS must conform to the area master plan, unless events have occurred to render the relevant recommendations no longer appropriate, or the Prince George's County District Council has not imposed the recommended zoning. Staff find that, pursuant to Section 24-121(a)(5), this application is not required to conform to the land use recommendations of the master plan, because on November 17, 2020, the District Council approved CB-69-2020 for the purpose of permitting multifamily dwellings in the prior R-55 Zone under certain specified circumstances, which are met by the subject site. This renders the relevant land use recommendations, within the master plan, no longer appropriate.

CB-69-2020 added Footnote 141 to Section 27-441(b) of the prior Zoning Ordinance. The requirements of this footnote are shown below in **bold** text, while staff comments on conformance to these requirements are given in plain text.

Notwithstanding any other provisions of this Subtitle, multifamily dwellings are a permitted use in the R-55 Zone provided:

- (a) **The use is located on property that has a minimum of nine (9) acres and a maximum of twelve (12) acres;**

The property has a gross tract area of 9.5 acres.

- (b) **The Property adjoins property owned by the Board of Education of Prince George's County;**

The property adjoins the Rosa L. Parks Elementary school to the southeast, which is owned by the Board of Education of Prince George's County.

- (c) **The use is located on property within one mile radius of a Metro station platform; and**

The property is approximately 0.9 mile from the Hyattsville Crossing metro station, and approximately 0.8 mile from the West Hyattsville metro station.

- (d) **A Detailed Site Plan shall be approved in accordance with Part 3, Division 9, of this Subtitle. Regulations concerning the net lot area, lot coverage and green area, lot/width frontage [sic], yards, building height, density, accessory buildings, minimum area for development, and other requirements of the R-55 Zone shall not apply. All regulations for the R-18 Zone set forth in Section 27-442 shall apply, except if the multifamily housing is constructed with Low-Income Housing Tax Credits, the maximum density shall be forty (40) dwelling units per acre and the maximum height shall be one hundred ten (110) feet. All other regulations shall be those approved by the Planning Board or District Council pursuant to Part 3, Division 9 of this Subtitle.**

The proposed multifamily building is to be constructed with low-income housing tax credits, according to the applicant. The proposed density of the project is 35 dwelling units per acre, which complies with the maximum density allowable should low-income housing tax credits be used. A detailed site plan (DSP) review will be required following approval of the subject PPS, pursuant to Part 3, Division 9 of the Zoning Ordinance (Subtitle 27). At the time of DSP, the proposed building architecture will be evaluated to ensure the building meets the height limit of 110 feet. Proposed lot coverage and green area, yards, accessory buildings, minimum area for development, and other regulations will also be evaluated and approved at the time of the DSP.

The proposed minimum net lot area and minimum lot width/frontage match those of the prior Multifamily Medium Density Residential (R-18) Zone, according to General Note 16 on the PPS. The proposed parcels exceed the R-18 standards and are therefore found to be acceptable at the time of this PPS. The minimum net lot area and lot width/frontage will ultimately be approved at the time of the DSP.

Though the land use recommendations of the master plan are no longer appropriate due to the project's conformance to Footnote 141, the master plan includes guidelines which are generally applicable to residential development and therefore still relevant to the subject PPS. Relevant guidelines from the Living Areas Chapter (Pages 72-74) are listed below in bold text, and staff comments on each guideline are listed in plain text.

5. A broad range of housing types and designs should be provided to meet the needs of different household ages, sizes and income levels.

This PPS proposes multifamily development. There are no other multifamily developments in the immediate area; therefore, the proposed development will broaden the range of housing types available in the area. The development is intended to meet the needs of households with low-income levels.

6. High-density housing should be located only in such a manner as to relate to, and maximize convenience to, public and private service facilities for the greatest number of people in the area, and only where designated in the Plan. Sufficient space should be available for the provision of new or expanded supporting facilities in proportion to the expected population increase.

Because the PPS is not required to conform to the land use recommendations of the master plan, the apartment building does not need to be located in an area specifically designated by the master plan for high-density housing. Nevertheless, the site is convenient to public and private service facilities such as the abutting school and park and nearby private institutional and commercial development. Development of the site will not impact the space available for new or expanding facilities needed to support an increasing population, as discussed in the Public Facilities finding of this technical staff report.

7. The site planning of apartment projects should provide adequate open space at the perimeter to serve as a buffer between the project and adjacent lower density residential development.

The property is adjacent to lower-density development located to the northeast. The on-site environmental features will serve as a suitable buffer between the project and this adjacent residential development.

8. Multifamily development should have direct access to arterial or collector roads and should not have primary access through single-family residential streets.

Access to the multifamily building is proposed only from Ager Road, an arterial roadway. Though this guideline supports such access, a variation from

Section 24-121(a)(3) is still required, in order to provide direct access to the site from an arterial roadway. The applicant requested a variation, and the request is discussed in the Transportation finding of this technical staff report.

- 14. Wherever possible, living areas should be linked to community facilities, transportation facilities, employment areas, and other living areas by a continuous system of pedestrian walkways and bike trails utilizing the open space and conservation network.**

The site has frontage on Ager Road, which features existing sidewalks and bike lanes that will link residents of the site to community facilities, transportation facilities, employment areas, and other living areas. The Northwest Branch trail is also accessible from the site.

- 15. Future apartment development should be located within walking distance (usually a 1,500-foot radius) of public transportation access points.**

The subject site is within immediate proximity of existing bus stops located along Ager Road, including one on the property frontage.

- 16. A living area design proposal should include an analysis of internal traffic circulation, as well as an examination of the development's potential impact on the local transportation system.**

The development is proposed to feature a single-access driveway onto Ager Road and an internal parking lot. Because only one parcel is proposed to be developed with the multifamily use, analysis of the parking lot's internal traffic circulation should be done at the time of the DSP.

- 20. Residential structures should be designed in harmonious relationships to one another and to the terrain and should be situated to create interesting spaces.**

The architecture of the proposed building should be evaluated, at the time of the DSP, to ensure a harmonious relationship with other nearby residential structures, as well as between it and the environmental features on site.

- 26. Visual attractiveness and recreational amenities for residential areas should be increased through the provision of open space, public and private maintenance programs, and other private actions to ensure an interesting, varied, and harmonious appearance.**

The development proposes public open space on Parcel 2, which will be maintained by DPR. Private open space on the multifamily parcel will be maintained by the ultimate private property owner. The visual attractiveness of the development should be evaluated with the DSP.

Based on the foregoing, and based on the information currently available, staff find that the proposed development meets the above guidelines at the time of this PPS.

Sectional Map Amendment/Zoning

The 1990 *Adopted Sectional Map Amendment for Planning Areas 65, 66, and 67* retained the subject property in the R-55 and R-35 Zones. On November 29, 2021, the District Council approved Prince George's County Council Resolution CR-136-2021, the Countywide Sectional Map Amendment, which reclassified the subject property from the R-55 and R-35 Zones into the RSF-65 and RSF-A Zones. However, this PPS is reviewed according to the prior zoning.

4. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. A SWM Concept Approval Letter (27161-2022-00) and associated plan were submitted with this PPS application. The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) issued the approval on January 30, 2023. This approved plan shows the use of 12 micro-bioretenention areas and an underground facility, beneath a proposed parking lot, to meet stormwater quality and quantity discharge requirements.

In an email dated December 19, 2023, the applicant withdrew the primary management area (PMA) impacts of one of the micro-bioretenention areas and the underground storage facility from consideration with this application. The Type 1 tree conservation plan (TCP1) and PPS will need to be revised, prior to signature approval, to move or remove these facilities. At the time of the DSP, the DSP and approved SWM concept plan will be reviewed to ensure the DSP is in conformance with the approved SWM concept plan. If the DSP cannot be made to conform with the approved SWM concept plan due to the facilities' associated PMA impacts not being approved, a revised SWM concept plan may be required.

Staff find that development of the site, in conformance with the SWM concept plan and any subsequent revisions, to ensure that no on-site or downstream flooding occurs, satisfies the requirements of Section 24-130 of the prior Subdivision Regulations.

5. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of Plan 2035, the master plan, the 2022 *Land Preservation, Parks and Recreation Plan for Prince George's County* (LPPRP), the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space* (Formula 2040), and the Subdivision Regulations, as they pertain to public parks and recreational facilities.

The subject property is within Park Service Area 2. Nearby developed park facilities include Heurich Park, located along the northeast border of the subject property, and Riggs Manor Park, located approximately .5 mile south of the site. In addition, The Northwest Branch Stream Valley Park is located 0.5 mile northeast of the subject property. The LPPRP indicates that Service Area 2 is well served by trails and neighborhood and community parks.

Master Plan Conformance

The master plan provides goals and policies related to parks and recreation (pages 147–156). The LPPRP provides parkland acquisition priorities (page 75) and level of service targets for parkland (pages 264–265). Additional acquisition of land along the Northwest Branch Anacostia River Stream Valley is recommended. Given that the PPS proposes to dedicate public parkland, as discussed below, the proposed PPS aligns with the

intentions of the applicable plans to provide natural undeveloped land; to provide open space designed to help satisfy local and sub-regional demand for recreation; and to support existing development and future residents.

Subdivision Regulations Conformance

Sections 24-134 and 24-135 of the Subdivision Regulations, which relate to mandatory dedication of parkland, provide for the dedication of land, the payment of a fee-in-lieu, and/or the provision of private recreational facilities to meet the park and recreation needs of the residents of the subdivision. Staff recommend that the requirement be met via dedication of stream valley parkland, pursuant to Section 24-134(a)(4).

Section 24-134(a)(4) provides 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.” Staff recommends the conveyance of approximately 3.65 acres of stream valley parkland, as identified in Parks Exhibit A, shown on the referral memorandum provided by DPR dated October 23, 2023 (Quattrocchi and Thompson to Diaz-Campbell, incorporated by reference herein). This area encompasses the area of the property zoned RSF-A (formerly zoned R-35).

The subject site is located within the Northwest Branch of the Anacostia River and is identified in the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan). There is an existing stream on-site that is part of the Northwest Branch Stream Valley. The land recommended for dedication encompasses most of the on-site stream, existing trees along the stream, most of the on-site floodplain, and a proposed reforestation area north of the stream (shown on the TCP1). The land is contiguous to existing M-NCPPC parkland (Heurich Park) to the east, and, when dedicated, will extend public parkland northward through the local community and allow for the conservation of the on-site stream.

The master plan cites the acquisition of stream valley parkland as a top priority (page 151). The plan states there is a need for “continued acquisition within the park acquisition lines” for Northwest Branch to “provide additional open space, preserve and protect the floodplain, help join neighborhoods, and provide flood protection to developed areas” (page 151). Guidelines 3, 5, and 7 of the Parks and Recreation section in the Public Facilities chapter further support the acquisition and dedication of passive parkland as sound conservation principles and practices (page 155–156). Though Guideline 3 of the Environmental Envelope chapter (page 50) indicates that land dedicated in accordance with the Subdivision Regulations should not consist of floodplain areas, this is to ensure land dedicated for parks can be developed for active recreation use. However, Section 24-134(a)(4) of the Subdivision Regulations provides specific circumstances under which land not to be developed for active recreation may meet mandatory parkland dedication requirements. Thus, the dedication of land within the floodplain, such as the land proposed for dedication with this PPS, can be appropriate.

The LPPRP prioritizes land acquisition goals for Fiscal Years 2023–2027. The acreage need identified for the acquisition of other stream valley parks is 375 acres (page 75) and in Service Area 2 there is a need for 1,696 acres of undeveloped Parkland (page 264). Due to

the guidelines of the master plan and the acquisition goals of the LPPRP, staff find that the applicable plans support preservation of the identified land within a stream valley park.

Per the LPPRP, 74 percent of residents in Service Area 2 are within 0.25 mile of a park and 100 percent of residents are within 1.0 mile of a park (page 264). The subject site is adjacent to Heurich Park, which is developed with a programmed artificial turf football/soccer field, a playground, a playfield, an outdoor dining area, a dog park and a basketball court. As noted earlier the subject property is also within 0.5 mile of Riggs Manor Park, which is improved with a basketball court, a playground, and an outdoor dining area. For these reasons, staff find that there is reasonable active recreation in the general area.

Heurich Park contains a segment of the Northwest Branch trail, however, there are no master-planned trail extensions onto the subject site. Residents of the site will be able to access the existing trail through entrances located southeast of the site along Ager Road.

The dedication of the 3.65 acres will protect the stream valley, serve the community, and provide connectivity to public natural open space to the east. Locations of active recreation facilities within .25 mile to .50 mile of the subject property were identified, to demonstrate the accessibility of active recreation by future residents. Staff find that the proposed mandatory dedication of parkland will meet the recreational needs of the future residents of this community. The dedication will be in conformance with applicable plans and the requirements of Subtitle 24, as they pertain to parks and recreation facilities, with the recommended conditions contained in this technical staff report.

The boundaries of the area shown for dedication on the PPS (Parcel 2) are found to be acceptable. However, the acreage of this area needs to be clarified. Parcel 2 is coterminous with the area of the site in the prior R-35 Zone; however, General Note 6 indicates this area is 3.8 acres while the plan drawing indicates it is 3.5 acres. The correct acreage of Parcel 2 should be shown on the PPS, prior to signature approval.

The applicant is providing woodland reforestation on-site in the area proposed for dedication to M-NCPPC. DPR has consented to the placement of woodland conservation easements on the land to be dedicated, and they will provide a memorandum to Environmental Planning staff giving this permission no later than, at the time of the Type 2 tree conservation plan (TCP2).

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

MASTER PLAN CONFORMANCE

Master Plan Right-of-Way

The subject property has frontage on Ager Road (A-42), which is designated by the MPOT as an arterial roadway with an ultimate right-of-way (ROW) of 100 feet. Ager Road is built out with four travel lanes, sidewalks, and bike lanes in both directions, and the plan shows that there are 120 feet of existing ROW. No additional ROW dedication to Ager Road is required. The plan shows a small amount (0.02 acre) of ROW dedication to 23rd Avenue.

Master Plan Pedestrian and Bike Facilities

The MPOT recommends a wide sidewalk and a designated bike lane along Ager Road adjacent to the property (page 35).

The MPOT provides policy guidance regarding multimodal transportation, and the Complete Streets element recommends how to accommodate infrastructure for people walking and bicycling. The MPOT includes the following policies, which are relevant to the subject development (MPOT, pages 9–10):

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

Policy 3: Small area plans within the Developed and Developing Tiers should identify sidewalk retrofit opportunities to provide safe routes to schools, pedestrian access to mass transit, and more walkable communities.

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.

Policy 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.

The master plan recommends the following regarding pedestrian and bicycle infrastructure in the Circulation and Transportation chapter (page 123):

Goal: To create and maintain a transportation network in the Planning Areas that is safe, efficient, and provides for all modes of travel in an integrated manner.

Objectives: To develop nonvehicular facilities where possible, including pedestrian/hiker trails, bicycle ways and equestrian paths.

A sidewalk and bike lane currently exist along the subject site's frontage on Ager Road. The sidewalk is six feet wide, which is wider than a standard sidewalk. The bike lane is 5 feet wide and meets the standards of the American Association of State Highway and Transportation Officials (AASHTO). Staff find that the existing sidewalk and bike lane should be maintained. There are also existing sidewalks along Rittenhouse Street and 24th Place which should be maintained. There is no sidewalk along the 23rd Avenue frontage, and one should be provided. Staff find that the existing facilities, with the addition of the 23rd Avenue frontage sidewalk, will satisfy the MPOT and master plan recommendations.

Access and Circulation

The PPS includes two proposed parcels. Parcel 2 is proposed to have frontage on 23rd Avenue, Rittenhouse Street, and 24th Place. However, this parcel is entirely encumbered by environmental features and will be conveyed to DPR, therefore no vehicular access to this parcel is proposed. Parcel 1, which is to be developed with the multifamily building, has its sole frontage on Ager Road, an arterial roadway. The PPS indicates that Parcel 1 will be served by one full movement access point along Ager Road. Staff find the configuration of

the access to be acceptable if a variation for direct access to an arterial is approved, as discussed below.

Section 24-121(a)(3) of the Subdivision Regulations establishes that proposed parcels fronting on a roadway of an arterial classification or higher shall be designed to front on either an interior street or service road. No new interior streets or service roads are proposed that would give Parcel 1 access on a frontage, other than Ager Road. In order to obtain direct access to the arterial roadway, the applicant has requested a variation from Section 24-121(a)(3).

Variation Request

In order to approve a variation, the Planning Board must find conformance to the criteria given in Section 24-113(a) of the prior Subdivision Regulations. The criteria are listed below in bold text, and staff responses are in plain text.

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

The access location will require approval from the Prince George's County Department of Public Works and Transportation (DPW&T). DPW&T may require additional improvements at the site entrance to accommodate traffic and to ensure safety. These improvements may include left turn lanes, acceleration/deceleration lanes, frontage improvements, signage, and pavement markings. At the time of this PPS, staff find the access location to be generally supportable; the access will be configured to create a four-way intersection with Ager Road and Patterson Street, which should create a safer traffic circulation pattern than having the entrance offset from the public street intersection. However, staff find that review and approval of an access permit by DPW&T will ultimately ensure that the proposed entrances will not be detrimental to the public safety, health, or injurious to other properties.

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

The overall property has frontage on Ager Road, 23rd Avenue, Rittenhouse Street and 24th Place. The most developable portion of the property fronts onto Ager Road and is separated from those other road frontages by significant environmental features, including the on-site PMA, floodplain, and stream, which would be difficult to cross. These features are unique to this property and not shared with the surrounding properties. Moreover, all of the existing development on 23rd Avenue, Rittenhouse Street, and 24th Street is single-family detached and semidetached residential. The residential development to the north and west is a well-established neighborhood. With the granting of the variation, access to the development will be via Ager Road; this will avoid conflicts with the surrounding neighborhood, which could result if the development established access to a neighborhood street.

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

The granting of a variation pursuant to the prior Subdivision Regulations is under the sole authority of the Planning Board. There are no known laws, ordinance or regulations that will be violated by this request. Further, review and approval of access permits by SHA and DPW&T will ensure that the proposed entrances will not constitute a violation of any other applicable law, ordinance, or regulation.

- (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 strict letter of these regulations is carried out;**

The most developable portion of the property fronts onto Ager Road and is separated from other road frontages by significant environmental features that would be difficult to provide vehicular access across. The applicant would be required to obtain state and federal permits to cross the environmental features. Even if such permits were approved, achieving access to 23rd Street, Rittenhouse Street, or 24th Place would require significant additional cost as well as greater impacts to the PMA. Because of the extra approvals (which would be needed to cross the environmental features), which may not be approved, and because of the possible conflicts (which could result if access was provided through the neighboring community), a particular hardship to the owner could result if the request were to be denied.

- (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.**

The property is not located in any of the above-mentioned zones; therefore, this criterion is inapplicable.

Staff find that the site is unique to the surrounding properties, and the variation request is supported by the required findings. Pursuant to Section 24-113(a), the Planning Board may approve a variation when it finds that extraordinary hardship or practical difficulties may result from strict compliance with the Subdivision Regulations, and/or when it finds that the purposes of the Subdivision Regulations may be served to a greater extent by an alternative proposal, provided that the variation does not have the effect of nullifying the intent and purpose of the prior Subdivision Regulations. Staff find that the site plan demonstrates adequate access for residents, visitors, and emergency services. Furthermore, the applicant would encounter a practical difficulty if strict compliance with the prior Subdivision Regulations was required, as no alternative access is practical given the above-described environmental features. Staff further find that approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations to provide the most beneficial relationship between the subdivision of land and the circulation of traffic, given that a more beneficial relationship cannot be implemented. Therefore, staff recommend approval of the variation request.

Based on the findings presented above, staff conclude that multimodal transportation facilities will exist to serve the proposed subdivision, as required under prior Subtitle 24 of the Prince George's County Code, and will conform to the MPOT and master plan, with the recommended conditions provided in this technical staff report.

7. **Public Facilities**—This PPS was reviewed for conformance to the master plan in accordance with Section 24-121(a)(5). The master plan contains a Public Facilities chapter (page 141) which establishes the following overall goals:

Goals:

- **To correctly determine current and future needs in response to economic development and population change.**
- **To coordinate plans of the public and private sectors and set priorities for the acquisition of land and the development of public facilities, so as to minimize public costs.**
- **To make timely and orderly provision for needed public facilities and services by providing facilities that are reasonably accessible to all potential users and will ensure adequate level of physical safety and personal well-being for residents.**
- **To make timely and orderly provision for needed public facilities and services by designing public buildings to be aesthetically and functionally compatible with their surroundings, and to be energy efficient.**

There are policies established for the following areas in the Public Facilities chapter of the master plan: schools, libraries, public safety, parks and recreation, solid waste management/recycling and water and sewer. The proposed development will not impede achievement of any of the above-referenced goals or policies. The analysis provided with approved Certificate of Adequacy ADQ-2022-028 illustrates that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the proposed development. There are no police, fire and emergency medical service facilities, public schools, or libraries proposed on the subject property. Land is proposed to be conveyed to DPR as public stream valley parkland, as discussed in the Parks and Recreation finding of this technical staff report.

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades, renovations to existing facilities, and construction of new facilities; however, none of its recommendations affect the subject site.

Section 24-122.01(b)(1) of the prior Subdivision Regulations states that the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for PPS or final plat approval. The 2018 *Water and Sewer Plan* placed this property in Water and Sewer Category 3, Community System. Category 3 comprises all developed land (platted or built) on public water and sewer, and undeveloped land with a valid PPS approved for public water and sewer. In addition, the property is within Tier 1 of

the Sustainable Growth Act. Tier 1 includes those properties served by public sewerage systems.

8. **Public Utility Easement**—In accordance with Section 24-122(a) of the prior 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 ROWs. The subject property has frontage on Ager Road, 23rd Avenue, Rittenhouse Street, and 24th Place. The PPS shows PUEs along all of these streets at a minimum of 10 feet wide.

9. **Historic**—The master plan contains goals and policies related to historic preservation (pages 51–60). However, these are not specific to the subject site or applicable to the proposed development. The subject property does not contain, and is not adjacent to, any designated Prince George’s County historic sites or resources.

A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicated the probability of archeological sites within the subject property was moderate, as the subject site is near the Northwest Branch of the Anacostia River. A Phase I archeology survey was completed, and a report was submitted in December 2022. The report further documented the Washington, Westminster & Getter Railroad prism (18PR432), and reported the discovery of an aboriginal flake scatter (18PR1237). No further archaeological investigation was recommended. From the standpoint of historic preservation, the PPS may be approved, subject to the conditions of approval recommended in this technical staff report.

10. **Environmental**—The following applications and associated plans were previously reviewed for the subject site:

Review Case #	Associated Tree Conservation Plan or Natural Resources Inventory #	Authority	Status	Action Date	Resolution Number
NA	TCP2-106-05	Staff	Approved	7-27-2005	N/A
NA	TCP2-106-05-01	Staff	Approved	6-2-2006	N/A
NA	NRI-193-2021	Staff	Approved	3-25-2022	N/A
4-22012	TCP1-015-2023	Planning Board	Pending	N/A	N/A
DSP-22017	TCP2-106-05-02	Planning Board	Pending	N/A	N/A

Grandfathering

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

Plan 2035

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

ENVIRONMENTAL CONFORMANCE WITH APPLICABLE PLANS

Master Plan Conformance

The master plan contains environmental guidelines, the following of which are applicable to the current project with regard to natural resources preservation, protection, and restoration. The text in **bold** is the text from the master plan and the plain text provides comments on plan conformance:

Guideline 5: Developers shall be encouraged to capitalize on natural assets through the retention and protection of trees, streams, and other ecological features.

This project proposes to retain and restore most of the regulated floodplain and woodlands on-site, the majority of which is proposed to be conveyed to DPR for protection and stewardship.

Guideline 6: The Natural Reserve Areas, containing floodplain and other areas unsuitable for development, should be restricted from development except for agricultural, recreational and similar uses; landfilling should be discouraged.

Most of the 100-year floodplain is proposed to be preserved and restored; however, there are a few proposed permanent impacts to the 100-year floodplain requested by the applicant for approval by the Planning Board that will be discussed below in the Regulated Environmental Features section.

Guideline 7: All development proposals should provide effective means for the preservation and protection of Natural Reserve Areas, and development plans for lands containing open space and conservation areas should specify how and by whom these areas will be maintained.

Guideline 8: Limited development should be permitted in Conditional Reserve Areas, based on the significant physiographic constraints and natural processes of the land.

As depicted on the Comprehensive Map of the master plan, the site is not located within the mapped Natural Reserved Area or Conditional Reserve Area; however, the environmental guidance for this area master plan was superseded by the

passage of Plan 2035, the update to Subtitle 25 Division 2 (the Woodland and Wildlife Habitat Conservation Ordinance (WCO)), and the 2018 Environmental Technical Manual.

Conformance with the Green Infrastructure Plan

According to the Green Infrastructure Plan the site contains regulated and evaluation areas. The regulated areas are comprised of an existing stream that is centrally located on-site and its associated 100-year floodplain. Evaluation areas appear to be associated with adjacent woodland areas.

The following policies and strategies 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.**

The green infrastructure network map within the Green Infrastructure Plan was referenced as part of the evaluation process of this application.

- 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.**

The existing designated regulated areas within the green infrastructure on-site have been prioritized for retention and restoration to protect plant, fish, and wildlife habitats along the connected stream ecosystem on-site.

- c. Protecting existing resources when constructing stormwater management features and when providing mitigation for impacts.**

DPIE inspectors will be required to inspect the site to ensure protection of existing resources when SWM features are constructed. No mitigation is required for impacting the green infrastructure network other than any overlapping impacts required to be mitigated under Subtitles 24, 25, and 32.

- 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.**

The existing connectivity of the on-site stream valley habitat through the site connecting off-site areas has been maintained with this development proposal, and it will be restored and enhanced through afforestation and stormwater management.

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.**

No special conservation areas are located on or within the vicinity of the subject site.

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.

No network gaps are mapped on-site per the Green Infrastructure Plan, and the proposed project will not result in fragmentation of the existing network on-site.

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.

No mitigation is required for the proposed impacts to the regulated environmental features (REF) shown; however, the applicant proposes to restore areas within the network of REF on-site by removing existing gravel and structures from within the PMA and targeting reforestation and afforestation within the regulated environmental features on-site.

2.6 Strategically locate off-site mitigation to restore, enhance and/or protect the green infrastructure network and protect existing resources while providing mitigation.

No off-site mitigation is required. The majority of the existing forest area is proposed to be preserved within the floodplain with additional afforestation/reforestation proposed within the floodplain to satisfy the entirety of the woodland conservation requirements on-site.

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

3.3 Design transportation systems to minimize fragmentation and maintain the ecological functioning of the green infrastructure network.

- a. Provide wildlife and water-based fauna with safe passage under or across roads, sidewalks, and trails as appropriate. Consider the use of arched or bottomless culverts or bridges when existing structures are replaced, or new roads are constructed.**

No stream crossings are proposed with this application. Preservation of the existing stream will help facilitate safe passage of wildlife across the site. Protection of the stream area in conservation easements and conveyance to M-NCPPC for maintenance will help protect the existing network in perpetuity for wildlife and water-based fauna to facilitate safe passage across the site.

- 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.**

No trails are proposed within the regulated environmental features (REF) and their buffers on-site.

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.

Afforestation areas will be placed into woodland conservation easements, while all areas within the primary management area (PMA) will be protected within a conservation easement prior to permit. DPR has agreed to the placement of woodland conservation easements on land to be conveyed to M-NCPPC.

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.

A SWM concept approval letter and associated plan were submitted with this PPS application, the details of which are discussed in the SWM finding of this technical staff report. Two impacts to the PMA caused by SWM facilities are being requested to be withdrawn from consideration at this time, and all remaining impacts are discussed in the Regulated Environmental Features section below. With the removal of these impacts, the final design will be in conformance with Policy 5.

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

The majority of the existing woodlands have been preserved within the stream buffer except where needed for required stormwater outfall structures. The woodland conservation requirements are proposed to be met entirely on-site within and outside of the stream buffer, but still within the existing floodplain and PMA, to provide a more beneficial habitat area. This should contribute to improvement to water quality with the trees providing bioaccumulation of unwanted substances from the watershed.

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.

The woodland conservation requirement will be met entirely on-site.

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.

All proposed woodland afforestation/reforestation is required to be entirely comprised by native species and will be evaluated at time of TCP2 when planting details will be reviewed.

7.4 Ensure that trees that are preserved or planted are provided appropriate soils and adequate canopy and root space to continue growth and reach maturity. Where appropriate, ensure that soil treatments and/ or amendments are used.

Planting details will be evaluated at the time of DSP and TCP2 review as required.

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.**

Planting of new forest in the clear area left from the removal of the existing barn is proposed on the TCP1. The appropriateness of an invasive species management plan will be evaluated at the time of TCP2 review.

- 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.**

Per the approved NRI, no forest interior dwelling species (FIDS) habitat is present on-site. The portion of the property that is mapped within a Sensitive Project Review Area is proposed to be largely restored through removal of existing gravel and structures and planting of woodlands.

- 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.**

This project must conform to existing zoning standards. The creation and adequacy of green and open spaces will be evaluated by the Urban Design Section and DPR at time of DSP review.

ENVIRONMENTAL REVIEW

Natural Resources Inventory/Existing Conditions

An approved Natural Resources Inventory, NRI-193-2021, was submitted with the application. This site is associated with REF, which include streams, wetlands, and their associated buffers. 100-year regulated County floodplain is mapped on-site. The PMA, which is comprised of REFs, 100-year floodplain, and any adjacent steep slopes, is mapped on-site. This site is not within a Tier II catchment area. The southeast edge of the site is mapped within a sensitive species review area, per PGAtlas; however, it is unclear what if any species are present on-site as no correspondence from the Maryland Department of Natural Resources (MDNR) was provided regarding the presence or absence of rare, threatened, or endangered species (RTES) on-site. Prior to signature approval of the TCP1, a copy of a letter from MDNR is required discussing whether or not any RTES are present on-site, and if any development restrictions exist. One forest stand covering 0.99 acre within the 100-year floodplain is present on-site. No woodlands are mapped outside of the 100-year floodplain. A total of 12 specimen trees exists on-site.

Woodland Conservation

This site is subject to the provisions of the WCO because the application is for a new PPS and is subject to the requirements of the 2018 Environmental Technical Manual (ETM). TCP1-015-2023 has been submitted with the subject application and requires minor revisions to be found in conformance with the WCO.

The woodland conservation threshold for this 9.51-acre property is 20 percent of the net tract area or 0.83 acre. The total woodland conservation requirement, based on the amount of clearing proposed, is 0.69 acre. This requirement is proposed to be satisfied with 0.74 acre of on-site afforestation/reforestation.

As previously discussed in the Master Plan Conformance section above, in an email dated December 19, 2023, the applicant withdrew the micro-bioretenment area and the underground storage facility located within the PMA, as identified as Impacts 6 and 7 in the associated SOJ, from consideration for review. These two impacts must be removed from the TCP1, prior to signature approval. The applicant may request these impacts, at the time of DSP and TCP2 review, when greater information is available to establish limitations of the site for final design.

At the time of DSP, the existing TCP2-106-05-02 will be required to be revised under the current design standards and will lose its grandfathering.

Specimen Trees

Section 25-122(b)(1)(G) of the WCO 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 (CRZ) 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." The code, however, is not inflexible.

The authorizing legislation of the WCO is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Annotated Code of Maryland. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in the WCO are set forth in Section 25-119(d). Section 25-119(d)(4) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

A Subtitle 25 variance was submitted for review with this application. The approved NRI-193-2021 identifies a total of 12 specimen trees on-site. The following analysis is a review of the request to remove specimen trees.

The SOJ requests the removal of seven specimen trees identified as Specimen Trees ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, and ST-14. The condition of trees proposed for removal ranges from poor to good. The TCP1 shows the location of the trees proposed for removal. These specimen trees are proposed for removal for the development of the site, roadways, utilities, SWM and associated infrastructure.

Specimen Tree Variance SOJ Table						
ST-#	DBH	Common Name	Location	Rating	Impacted by Design Elements	Construction Tolerance
ST-1	36"	Red maple	Within the net developable area	Good	Construction of one of the residential buildings	Good
ST-2	30"	Silver maple	Along the property frontage with Ager Road	Poor	Frontage improvement along Ager Road	Poor
ST-3	32"	Red maple	Along the property frontage with Ager Road	Fair	Frontage improvement along Ager Road	Good
ST-4	35"	Red maple	Along the property frontage with Ager Road	Fair	Frontage improvement along Ager Road	Good
ST-5	35"	Red maple (Incorrectly identified as a 16" eastern red cedar in SOJ variance request)	Along the property frontage with Ager Road	Fair	Frontage improvement along Ager Road	Good
ST-6	42"	Silver maple	Center of the net developable area	Poor	Construction of one of the residential buildings	Poor
ST-14	32"	Silver maple	Within the conservation easement	Fair	Proximate to demolition of an existing barn	Poor

Statement of Justification Request

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

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

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the specimen trees located on-site. Those special conditions relate to the specimen trees themselves, such as their size, condition, species, and on-site location.

Four of the Specimen Trees ST-2, ST-3, ST-4, and ST-5 are located along the frontage of Ager Road, two of the Specimen Trees ST-1 and ST-6 are located within the area outside of the floodplain, which is the only area suitable for development; while one Specimen Tree ST-14 is located within the existing floodplain.

The table above indicates that four Specimen Trees ST-2, ST-3, ST-4, and ST-5 (requested for removal) are to facilitate improvements along the Ager Road frontage. One Specimen Tree, ST-14, is requested for removal in order to facilitate demolition of an existing barn within the floodplain, and two Specimen Trees ST-1 and ST-6 are requested for removal to facilitate the construction of one of the residential buildings. The species proposed for removal are red maple and silver maple. The condition ratings of these trees range from poor to good, with most classified in fair condition. The tree species have a mixture of good and poor construction tolerances; however, all species of the included specimen trees have limiting factors for their construction tolerance, specifically if significant impacts are proposed to the CRZ.

Staff find that removal of Specimen Trees ST-2, ST-3, ST-4, and ST-5 is necessary to facilitate site improvements along the Ager Road frontage within the PUE; removal of Specimen Trees ST-1 and ST-6 are necessary for the development of one of the residential buildings on-site; and removal of Specimen Tree ST-14 is required in order to accommodate demolition of an existing barn in the floodplain and restore the area near the stream to a natural state.

Retention of these trees and protection of their respective CRZs would have a considerable impact on the proposed development by creating challenges for building siting, for implementing any required street frontage improvements, and for removal of a derelict barn from the property.

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

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their CRZ, would deprive the applicant of rights commonly enjoyed by others in similar areas. All variance applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the ETM for site-specific conditions. Specimen trees grow to such a large size because they have been left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all somewhat unique for each site.

Based on the location and species of the specimen trees proposed for removal, retaining the trees and avoiding disturbance to the CRZ would prevent the applicant from constructing one of the buildings integral to this development, prevent restoration to the floodplain along the northern section of the property, and prevent any needed utility improvements to be made within the PUE along Ager Road.

The proposed multifamily residential development aligns with the uses permitted under the R-55 Zone Based on the unique characteristics of the property, enforcement of these rules would deprive the applicant of the right to develop the property in a similar manner to other properties in the area.

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

Not granting the variance request for ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, and ST-14 would prevent the applicant from constructing one of the buildings integral to this development, prevent restoration to the floodplain along the northern section of the property, and prevent any needed utility improvements to be made within the PUE along Ager Road. This is not a special privilege that would be denied to other applicants. If other similar developments featured REF and specimen trees in similar conditions and locations, they would be given the same considerations during the review of the required variance application.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The removal of all seven specimen trees would be the result of the development as proposed by the applicant, and in the case of ST-14, the need to remove an existing barn from the 100-year floodplain. The request to remove the trees is solely based on the trees' location on the site, their species, and their condition.

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

There are no existing conditions relating to land or building uses on the site, or on neighboring properties, which have any impact on the location or size of the specimen trees. The trees have grown to specimen tree size based on natural conditions and have not been impacted by any neighboring land or building uses.

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

Granting this variance request will neither violate state water quality standards nor cause measurable degradation in water quality. Requirements regarding SWM will be reviewed and approved by DPIE. Erosion and sediment control requirements will be reviewed and approved by the Soil Conservation District (SCD). Both SWM and sediment and erosion control requirements are to be met in conformance with state and local laws to ensure that the quality of water leaving the site meets the state's standards. State standards are set to ensure that no degradation occurs.

Staff find that the required findings of Section 25-119(d) have been adequately addressed for the removal of the specimen trees identified as ST-1, ST-2, ST-3, ST-4, ST-5, ST-6, and ST-14 and, therefore, recommend approval of the variance request.

Preservation of Regulated Environmental Features/Primary Management Area

This site contains REF that are required to be preserved and/or restored to the fullest extent possible under Section 24-130(b)(5) of the prior Subdivision Regulations. The on-site REF include streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, and steep slopes.

Section 24-130(b)(5) of the prior Subdivision Regulations states: "Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and

all plans associated with the subject application shall demonstrate the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible consistent with the guidance provided by the Environmental Technical Manual established by Subtitle 25. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required pursuant to Subtitle 27, for the reasonable development of the lot outside the regulated feature. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.”

Impacts to the REF should be limited to those that are necessary for development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for SWM facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the REF. SWM 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 REF on this property, as delineated in the approved NRI plan, include a stream, wetlands and their associated buffers. PMA inclusive of these REF, existing floodplain, and adjacent steep slopes are also mapped along over half of the site (5.36 acres). The applicant submitted a revised SOJ for seven impacts to the REF and PMA, dated December 14, 2023. A subsequent email was received dated December 19, 2023, for a formal request to remove proposed Impacts 6 and 7 from consideration. Thereafter, another SOJ was received dated December 26, 2023, confirming that the applicant’s request was for Impacts 1-5 only. A summary of the proposed impacts for consideration are as follows:

Impact #	Type of Impact	Square footage Impact to REF (Per the December 14, 2023, SOJ)
1	Installation of a 36” storm drainpipe and outfall	5,057 SF
2	Installation of a 24” storm drainpipe and outfall	1,764 SF
3	Demolition and removal of an existing barn and associated temporary access road from 24 th place to the barn.	4,469 SF
4	Removal of an existing outbuilding and a portion of an existing gravel driveway that connects several existing outbuildings.	1,764 SF
5	Removal of two existing outbuildings and remaining portion of an existing gravel driveway.	12,480 SF
	Total:	25,534 SF

Impacts 1 and 2 are for stormwater pipes, outfall structures, and riprap. These impacts total 6,821 square feet of floodplain and PMA impacts. As discussed above, Impacts 1 and 2 are due to the installation of required infrastructure. They qualify as necessary impacts per the Code, and staff find that REF have been preserved and/or restored in a natural state to the fullest extent possible, in accordance with the requirements of prior Subtitles 24 and 27.

Impacts 3, 4, and 5 are for the removal of existing structures, an existing gravel driveway, and a temporary access road to access one of the structures for demolition. These impacts are required for the removal of these derelict structures and gravel driveway for restoration of the area they currently occupy within the PMA to a more natural state before conveyance to the M-NCPPC Parks Department. Impacts 3, 4, and 5 qualify as necessary impacts per the Code, and staff find that REF have been preserved and/or restored in a natural state to the fullest extent possible, in accordance with the requirements of prior Subtitles 24 and 27.

Staff noted that the square footage of the remaining impacts, exclusive of Impacts 6 and 7 in the December 19, 2023, email, did not match that of the revised SOJ dated December 14, 2023. Confirmation of the actual impact area (25,534 square feet) was provided in the revised SOJ dated December 26, 2023.

Impacts 6 and 7 shall be removed from the TCP1 and PPS, prior to their signature approval.

Erosion and Sediment Control

The County requires the approval of an erosion and sediment control plan. The tree conservation plan must reflect the ultimate limits of disturbance not only for installation of permanent site infrastructure, but also for the installation of all temporary infrastructure including erosion and sediment control measures. A copy of the erosion and sediment control technical plan must be submitted so that the ultimate limits of disturbance (LOD) for the project can be verified and shown on the TCP2.

Soils

The predominant soils found to occur on-site, according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, include Codorus and Hatboro soils frequently flooded; Urban land-Woodstown complex (0–5 percent slopes), and Woodstown-Urban land complex (0–5 percent slopes).

According to available information, unsafe soils containing Marlboro clay or Christiana complexes are not mapped on this property. A geotechnical review was not requested with this application; however, a copy of one was submitted with this application. It may be required for review by the County with a future development application, in conformance with CB-94-2004.

Based on the preceding findings, staff find that the PPS conforms to the relevant environmental policies of the master plan and the Green Infrastructure Plan, and the relevant environmental requirements of prior Subtitle 24 and Subtitle 25, with the recommended conditions of approval.

- 11. Urban Design**—The proposed development will be subject to a DSP approval, at which time the following requirements will be applicable:

Conformance with the Requirements of the prior Prince George's County Zoning Ordinance

The applicant is proposing 145 multifamily dwelling units in the portion of the property zoned R-55. Pursuant to Section 27-441(b) of the Zoning Ordinance, Footnote 141, multifamily dwellings are a permitted use in the prior R-55 Zone subject to the conditions provided in the footnote, including a requirement for DSP approval. At the time of DSP review, the applicant will be required to demonstrate conformance with the applicable requirements of the Zoning Ordinance, including but not limited to, the following:

- Section 27-430 and 27-441, requirements for the prior R-55 Zone, as applicable;
- Part 11, Off-Street Parking and Loading;
- Part 12, Signs; and
- Part 3, Division 9, Site Plans.

Conformance with the 2010 Prince George's County Landscape Manual

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* (Landscape Manual). Specifically, conformance with the following requirements of the Landscape Manual will be evaluated at the time of DSP: Section 4.1, Residential requirements; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements.

Ager Road is an arterial road requiring a landscape buffer for the frontage according to Section 4.6 (A minimum 50-foot-wide buffer to be planted with a minimum of 170 plant units per 100 linear feet of property line adjacent to the street). All plant material required by this section shall be located outside of PUEs adjacent to the ROW.

Incompatible uses are located to the northwest (place of worship) and southeast (educational use) which require a bufferyard in accordance with Section 4.7. A Type B buffer will be required along the south property line, and a Type A buffer will be required along the west property line, respectively.

Conformance with the 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 project that proposes more than 5,000 square feet of gross floor area or disturbance, and requires a grading permit. Properties that are within the prior R-55 Zone are required to provide a minimum of fifteen percent of the gross tract area under tree canopy coverage (TCC), which equates to approximately 1.42 acres for this property. Compliance with this requirement will be evaluated at the time of DSP.

Staff find that approval of this PPS will not pose an impediment to achieving conformance with the prior Zoning Ordinance, Landscape Manual and TCC requirements, at the time of DSP review.

12. **Noise**—The property abuts Ager Road, an arterial roadway, therefore the applicant was required to provide a noise study analyzing whether any noise mitigation would be needed for the subject property.

The most recent standards for noise under the prior Zoning Ordinance and Subdivision Regulations are that noise must be mitigated to be no more than 65 A-weighted decibels (dBA) continuous equivalent sound level (Leq) during the hours of 7:00 a.m. to 10:00 p.m. (daytime) and no more than 55 dBA/Leq during the hours of 10:00 p.m. to 7:00 a.m. (nighttime) in outdoor activity areas. This method of measurement establishes that the *average* noise level in outdoor activity areas must be no more than 65 dBA during the daytime and 55 dBA during the nighttime. The most recent standards also establish that noise must be mitigated to be no more than 45 dBA in the interiors of dwelling units.

The noise study submitted by the applicant follows the prior standards for noise used by the Planning Department. The study delineated the unmitigated 65 dBA day-night average sound level (Ldn) noise contour, finding it to be approximately 25 feet from the front street line. The prior 65 dBA/Ldn standard is similar to a 65 dBA/Leq 24-hour noise average, but with a 10-decibel (dB) penalty to nighttime noise levels. Because of this, the unmitigated 65 dBA/Ldn 24-hour noise contour can be treated as an average of the unmitigated 65 dBA/Leq daytime noise contour and the unmitigated 55 dBA/Leq nighttime noise contour, resulting in it being located in between the two Leq contours. The 65 dBA/Leq daytime contour will be located closer to the noise source (the arterial), and the 55 dBA/Leq nighttime contour will be located farther from the noise source.

With this application, the applicant is not required to provide any outdoor activity areas, as mandatory dedication of parkland is being accomplished with the conveyance of stream valley parkland. Prior discussion with the applicant has indicated that they may provide a courtyard at the rear of the building for the use of their residents. The noise study indicates that the courtyard, if provided, will not exceed acceptable noise levels and will be further mitigated due to the shielding provided by the building.

Standard building construction materials are capable of reducing noise levels at building exteriors of up to 65 dB, to be no more than 45 dB in building interiors. For this reason, the noise standards require that any dwelling unit which will experience average exterior noise levels above 65 dBA (as shown by the position of the 65 dBA/Leq daytime noise contour), shall demonstrate noise mitigation to bring interior noise levels down to 45 dBA. Mitigation is typically accomplished through upgraded construction materials capable of greater sound reduction. Based on the currently proposed location of the building, no dwelling unit will be exposed to noise levels above 65 dBA. The building is not affected by the 65 dBA/Ldn unmitigated noise contour, and because the 65 dBA/Leq noise contour will be located farther from the building (closer to the arterial), the building will also not be affected by the unmitigated 65 dBA/Leq daytime noise contour. No dwelling unit will need additional noise mitigation beyond what can be accomplished with standard construction materials.

Staff conclude that no exterior noise mitigation will be required, and that no interior noise mitigation will be required unless the building position changes so that it is close enough to Ager Road to be affected by the unmitigated 65 dBA/Leq daytime noise contour. At the time of DSP, the applicant should determine the position of the multifamily building. If the building is affected by the unmitigated 65 dBA/Ldn noise contour currently shown on the

plan, the applicant should submit a revised noise study which determines the location of the unmitigated 65 dBA/Leq daytime noise contour, shows whether the building will be impacted by this contour, and, if impacted, what noise mitigation measures will be put in place to reduce interior noise to below 45 dBA. If interior noise mitigation is required, at the time of building permit, the permit should include a certification by a professional engineer with competency in acoustical analysis, stating that the building shell or structure has been designed to reduce interior noise levels in the units to 45 dBA or less.

- 13. Community Feedback**—Planning staff received a request from the 8th Precinct Civic Association to make a presentation to their members on how to provide feedback on the subject application. Staff attended a meeting held on November 20, 2023, at the Rollingcrest Community Center, to make the presentation. The topics covered at the meeting included basic information about the project, how to become a person of record, how to provide testimony for the Planning Board hearing, and the date of the Planning Board hearing. No specific feedback on the project was received at the meeting, given the meeting’s limited scope. Although several members of the community had questions about the details of the project, staff did not have answers available to these questions at the meeting, and the meeting organizer determined the questions would be better directed towards the applicant. According to information provided by the Association, a meeting between the Association and the applicant took place on December 18, 2023.

At the time of the writing of this technical staff report, the Prince George’s County Planning Department has not received any other written correspondence from the community for this subject application.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised as follows:
 - a. Clarify the correct acreage of Parcel 2 (3.65 acres or 3.68 acres).
 - b. Delete General Note 38, as two parcels are proposed.
 - c. On all plan sheets, except the existing conditions plan, label the area of Parcel 1 on the plan drawing.
 - d. Remove the label for proposed Parcel 2 from the existing conditions plan.
 - e. Label the length of each of the two property lines shared between Parcels 1 and 2.
 - f. Revise the stormwater management facilities shown on the PPS to account for the removal of primary management area Impacts 6 and 7 from the Type 1 tree conservation plan.

- g. Add a statement to General Note 11 saying that the PPS was reviewed according to the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations.
 - h. Delete General Note 15, as lot coverage will be determined with the detailed site plan.
 - i. In General Note 24, add the word "approximately" before 3.65 acres.
 - j. In General Note 27, add the number of the Type 1 tree conservation plan.
2. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised, as follows:
 - a. Remove proposed primary management area Impacts 6 and 7 from the TCP1 plan (as reflected on the impact exhibits provided).
 - b. Have the plans signed and dated by the qualified professional who prepared them.
 3. Development of this site shall be in conformance with Stormwater Management Concept Plan 27161-2022-00 and any subsequent revisions.
 4. Prior to approval, the final plat of subdivision shall include the following:
 - a. The granting of public utility easements along the abutting public rights-of-way, in accordance with the preliminary plan of subdivision.
 - b. The dedication of right-of-way to 23rd Avenue, in accordance with the preliminary plan of subdivision.
 5. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities, and shall show these facilities on the detailed site plan, prior to its acceptance:
 - a. A standard sidewalk along the property's frontage on 23rd Avenue, unless modified by the operating agency with written correspondence.
 6. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-015-2023). The following note shall be placed on the final plat of subdivision:

"This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-015-2023), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the

Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."

7. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area except for any approved impacts and shall be reviewed by the Environmental Planning Section of the Development Review Division of the Prince George's County Planning Department prior to approval of the final plat. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."
8. Prior to issuance of any permits which impact wetlands, wetland buffers, streams or waters of the United States, the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
9. Prior to signature approval of the preliminary plan of subdivision, the applicant shall provide a copy of a letter from the Maryland Department of Natural Resources discussing whether or not any rare, threatened, or endangered species are present on-site, and if any development restrictions exist.
10. Prior to approval of building permits, the applicant shall submit evidence from the Prince George's County Health Department that the trash found on the site and in the stream has been removed and properly stored or discarded.
11. Prior to approval of a rough grading permit, any abandoned well or septic system shall be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Prince George's County Health Department.
12. Prior to acceptance of a detailed site plan, the applicant shall determine whether the building is impacted by the unmitigated 65 dBA/Ldn noise contour, as shown on the preliminary plan of subdivision. If the building is impacted by the 65 dBA/Ldn noise contour, the applicant shall submit a revised noise study which shows the location of the unmitigated 65 dBA/Leq noise contour for the hours of 7:00 a.m. to 10:00 p.m. If the building is impacted by the 65 dBA/Leq noise contour, the noise study shall recommend noise mitigation to ensure noise levels within the dwelling units are mitigated to below 45 dBA.
13. If the building is determined to require interior noise mitigation as described by Condition 12 above, prior to approval of a building permit, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permit, stating that the building shell or structure has been designed to reduce interior noise levels in the dwellings to 45 dBA or less.
14. At the time of final plat, in accordance with Section 24-134(a)(4) of the Prince George's County Subdivision Regulations, approximately 3.65 +/- acres of parkland, as shown on the

preliminary plan of subdivision (Parcel A), shall be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC). The land to be conveyed shall be subject to the following conditions:

- a. An original, special warranty deed for the property to be conveyed (signed by the Washington Suburban Sanitary Commission, Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division of the Prince George's County Planning Department, along with the first final plat application.
- b. The applicant and the applicant's heirs, successors and/or assignees shall demonstrate that any liens, leases, mortgages, or trusts have been released from the land to be conveyed to M-NCPPC.
- c. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including, but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges, prior and subsequent to a building permit application.
- d. The boundaries, lot or parcel identification, and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits, which include such property.
- e. The land to be conveyed shall not be disturbed or filled in any way, without the prior written consent of the Prince George's County Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for grading permits.
- f. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled, and underground structures shall be removed. The Prince George's County Department of Parks and Recreation shall inspect the site and verify that land is in an acceptable condition for conveyance, prior to dedication.
- g. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed or owned by M-NCPPC, the Prince George's County Department of Parks and Recreation (DPR) shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement, prior to issuance of grading permits.
- h. In general, no stormwater management facilities, tree conservation, or utility easements shall be located on land owned by, or to be conveyed to, M-NCPPC. However, the Prince George's County Department of Parks and Recreation (DPR) recognizes that there may be need for conservation or utility easements in the dedicated M-NCPPC parkland. Prior to the granting of any easements, the applicant must obtain written consent from DPR. DPR shall review and approve the location

and/or design of any needed easements. Should the easement requests be approved by DPR, a performance bond and/or maintenance and easement agreement may be required prior to the issuance of any grading permits.

15. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the Final Plat of Subdivision:

“This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 tree conservation plan, when approved.”

STAFF RECOMMEND:

- Approval of Preliminary Plan of Subdivision 4-22012
- Approval of Type 1 Tree Conservation Plan TCP1-015-2023
- Approval of a Variation from Section 24-121(a)(3)
- Approval of a Variance to Section 25-122(b)(1)(G)