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Preliminary Plan of Subdivision Hill Road Property

4-22014

REQUEST	STAFF RECOMMENDATION
<p>This case was continued from the Planning Board hearing date of May 2, 2024, to June 27, 2024.</p> <p>Two parcels and one outlot for 8,574 square feet of commercial development.</p>	<p>With the conditions recommended herein:</p> <ul style="list-style-type: none">• Approval of Preliminary Plan of Subdivision 4-22014• Approval of Type 1 Tree Conservation Plan TCP1-005-2024• Approval of a Variance to Section 25-122(b)(1)(G)• Approval of a Variation from Section 24-121(a)(3)

Location: In the northwest quadrant of the intersection MD 214 (Central Avenue) and Hill Road.	
Gross Acreage:	3.71
Zone:	RMF-20/RSF-A/MIO
Prior Zone:	R-18C/R-T/M-I-O
Reviewed per prior Subdivision Regulations:	Section 24-1900
Gross Floor Area:	8,574 sq. ft.
Dwelling Units:	N/A
Lots:	0
Parcels:	2
Outlots:	1
Planning Area:	72
Council District:	07
Municipality:	N/A
Applicant/Address: Retail RE Central Hill LLC 117 West Patrick Street, Ste. 200 Frederick, MD 21701	
Staff Reviewer: Eddie Diaz-Campbell Phone Number: 301-952-3665 Email: Eddie.Diaz-Campbell@ppd.mncppc.org	



Planning Board Date:	06/27/2024
Planning Board Action Limit:	07/02/2024
Mandatory Action Timeframe:	140 days
Staff Report Date:	06/20/2024
Date Accepted:	02/13/2024
Informational Mailing:	02/25/2022
Acceptance Mailing:	02/08/2024
Sign Posting Deadline:	04/02/2024

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at

http://www.mncppcapps.org/planning/Person_of_Record/.

Please call 301-952-3530 for additional information.

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-22014
Type 1 Tree Conservation Plan TCP1-005-2024
Variance to Section 25-122(b)(1)(G)
Variation from Section 24-121(a)(3)
Hill Road Property

OVERVIEW

The subject site is located in the northwest quadrant of the intersection MD 214 (Central Avenue) and Hill Road. The property totals 3.71 acres and consists of four existing parcels. These parcels are identified in tax assessment records as Parcel 179, recorded in Book 48964 page 314 of the Prince George's County Land Records; Parcels 184 and 185 recorded in Book 14015 page 503; and Parcel 354 recorded in Book 42265 page 558. The property is subject to the 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* (master plan).

The property is in the Residential, Multifamily-20 (RMF-20) and Residential, Single-Family-Attached (RSF-A) Zones, and it is subject to the Military Installation Overlay (MIO) Zone. However, this application has been submitted 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 in the Multifamily Medium Density Residential-Condominium (R-18C) Zone, Townhouse (R-T) Zone, and the prior version of the Military Installation Overlay (M-I-O) Zone, which were effective prior to April 1, 2022. Specifically, Parcels 179, 184, and 185 were zoned R-18C and Parcel 354 was zoned R-T, while the entire property was subject to the M-I-O Zone.

Parcels 184 and 185 are currently developed with a single-family dwelling, outbuildings, and paving. Parcels 179 and 354 are currently vacant. The subject properties have never been the subject of a prior preliminary plan of subdivision (PPS) or final plat of subdivision approval. All existing structures on the site are proposed to be razed. This PPS proposes to subdivide the properties into two parcels and one outlot. The proposed outlot is 294 square feet and is to be conveyed to the Washington Metropolitan Area Transit Authority (WMATA), pursuant to Section 24-121(a)(7) of the prior Subdivision Regulations, while the two parcels are collectively proposed for 8,574 square feet commercial development.

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 August 1, 2022. In accordance with Section 24-1904(b), the applicant provided a statement of justification (SOJ) explaining why they were requesting to use the prior regulations. In

accordance with Section 24-1904(c), this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2022-015.

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, to allow the removal of one specimen tree. This request is discussed further in the Environmental finding of this technical staff report.

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

SETTING

The site is located on Tax Map 66, Grid F-4, and is within Planning Area 72. Hill Road abuts the subject property to the east, with vacant land in the Commercial, General and Office (CGO) Zone (formerly within the Commercial Office and Development District Overlay Zones associated with the Morgan Boulevard and Largo Town Center Metro Areas) beyond. South of the subject site is MD 214 (Central Avenue), with commercial development in the CGO Zone (formerly the Commercial Shopping Center Zone) and a single-family attached dwelling in the RSF-A Zone (formerly the R-T Zone) beyond. The properties to the west of the subject site consist of commercial development in the RMF-20 Zone (formerly the R-18C Zone). North of the subject site is WMATA-owned property also in the RMF-20 Zone (formerly the R-18C Zone). The subject property and its surroundings are also located in the MIO Zone, for height.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

- Development Data Summary**—The following information relates to the subject preliminary plan of subdivision (PPS) application and the proposed development.

	EXISTING	EVALUATED
Zones	RMF-20/RSF-A/MIO	R-18C/R-T/M-I-O
Use(s)	Residential	Commercial
Acreage	3.71	3.71
Parcels	4	2
Outlots	0	1
Dwelling Units	0	0
Subtitle 25 Variance	No	Yes (Section 25-122(b)(1)(G))
Variation	No	Yes (Section 24-121(a)(3))

The subject PPS, 4-22014, was accepted for review on February 13, 2024. 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, which held a meeting on March 1, 2024, at which comments were provided to the applicant. Revised plans were received on March 21, 2024 and March 28, 2024, which were used for the analysis contained herein.

2. **Previous Approvals**—The site is not subject to any previous development approvals. There is a pending detailed site plan (DSP) for the site, DSP-21003, which was accepted for review on October 21, 2021, and received an indefinite continuance on January 13, 2022. The DSP proposed a food and beverage store, with a gas station, on the east side of the site. It is anticipated that the DSP will move forward following approval of this PPS, pursuant to Section 27-1703(a) of the Prince George’s County Zoning Ordinance, as the DSP was filed and accepted prior to April 1, 2022.
3. **Community Planning**—The 2014 *Plan Prince George’s 2035 Approved General Plan* (Plan 2035) and conformance with the master plan are evaluated, as follows:

Plan 2035

The subject property is located in the Established Communities Growth Policy Area of Plan 2035. Plan 2035 classifies established communities as existing residential neighborhoods and commercial areas served by public water and sewer outside of the Regional Transit Districts and Local Centers. 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-High Density Residential use on the subject property. The proposed uses are a food and beverage store, with a gas station, on Parcel A, and a permitted commercial use on Parcel B.

The proposed use of Parcel A does not conform with the master plan’s recommended land use. However, staff recognize that pursuant to Footnote 137, of the Residential Zones use table, of the prior Prince George’s County Zoning Ordinance, a food or beverage store in combination with a gas station is a permitted use in the Multifamily Medium Density Residential-Condominium (R-18C) Zone, as approved by the Prince George’s County District Council, per Prince George’s County Council Bill CB-63-2019. Staff further find that, notwithstanding the requirements of Section 27-1903(e)(2) of the current Zoning Ordinance (which requires an application for a new gas station utilizing the prior ordinance to be filed and accepted within one year of the effective date of the current ordinance), a gas station may be approved pursuant to the prior Zoning Ordinance under DSP-21003, because the DSP was filed and accepted prior to April 1, 2022, in accordance with Section 27-1703(a).

The proposed use of Parcel B is intended to be a permitted commercial use, which at this stage, appears to be an eating and drinking establishment with drive-through service. An eating and drinking establishment with drive-through service is not permitted in the R-18C Zone, however, the applicant may elect to utilize the current Zoning Ordinance at any stage of development. This use is permitted under the current RMF-20 zoning of the property. The uses are not approved at the time of PPS, and will be reviewed for conformance with the prior or current Zoning Ordinance, as applicable, prior to the approval of building permits. A proposed commercial use does not conform to the land use recommendation of the master plan. However, the zoning imposed upon the subject property allows for some commercial uses by right.

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 District Council has not imposed the recommended zoning. Staff find that, pursuant to Section 24-121(a)(5), events have occurred to render the land use recommendation of the master plan no longer relevant, given the legislative amendments and zoning of the property, to allow commercial uses.

Pursuant to Section 24-121(a)(5), staff find that the PPS is still required to conform to the following relevant goals, policies, and strategies of the master plan that are applicable to the subject property.

The overall master plan goal is to designate compatible land uses on existing undeveloped sites that are compatible with surrounding land use development patterns (page 63). The master plan places this PPS in Living Area B-Zone 2 (Map 5-4: Living Area B, page 89). Under the Strength and Opportunities for Land Use and Urban Design Section, the master plan states that Zone 2 “has a relatively dense urban character, street grid, and tight neighborhood fabric that make it very walkable. These qualities should be extended to the Metro centers to better link current isolated areas. New areas of infill development on vacant and underutilized sites should complement the existing urban/neighborhood scale and character to reinforce the area’s cohesiveness” (page 97).

The development proposed use for Parcel A will be compatible with the surrounding land uses and will facilitate movement and economic activity in the master plan area. The use for Parcel B will be evaluated for compatibility with the surrounding land uses, as is also required in accordance with the applicable *Prince George’s County Landscape Manual* (Landscape Manual), at the time a specific commercial use is identified and proposed for development.

For Living Area B-Zone 2, the master plan endorses special focus on community health and wellness goals for the area with the policy that land uses permitted in Living Area B will be developed in a way that benefits the overall health and wellness of the community (page 105). The following strategy is recommended to achieve this goal:

Strategy: Fast food establishments with drive-through windows are not allowed. Fast food establishments without drive-through windows must provide healthy choice offerings, such as fresh fruit, vegetables, salads, etc., as their lowest-priced menu items (page 105).

While the proposed use on Parcel B is unclear, staff recommend that the applicant consider providing healthy food options if it were to be developed as a permitted eating or drinking establishment.

Considering the presence of other convenience stores close to the subject property, staff recommend that the applicant consider providing healthy food options in the food and beverage store proposed on Parcel A, to benefit the overall health and wellness of the community and thereby advance the intent and purpose of the master plan. This can include the provision of fruits, vegetables, dairy products, and necessary staple goods.

Sectional Map Amendment/Zoning

Pursuant to the adoption of the 2010 *Subregion 4 Sectional Map Amendment*, the subject property was placed in the R-18C, R-T, and M-I-O Zones. On November 29, 2021, the District Council approved Prince George's County Council Resolution CR-136-2021, the Countywide Map Amendment, which reclassified the subject property from the R-18C, R-T, and M-I-O Zones to the RMF-20, RSF-A, and MIO Zones, effective April 1, 2022. However, this PPS was reviewed pursuant to the prior zoning.

Aviation/Military Installation Overlay Zone

This application is located within the M-I-O Zone for height. Development must comply with the maximum height requirements of Section 27-548.54(e)(2)(B) of the prior Zoning Ordinance, which will be evaluated further with the review of applications including proposed buildings.

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 (6399-2021-00) 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 September 1, 2021, and it is valid until September 1, 2024. The plan shows eight micro-bioretenment facilities to provide stormwater retention and attenuation on-site.

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**—In accordance with Section 24-134(a) of the prior Subdivision Regulations, the subject PPS is exempt from mandatory dedication of parkland requirements because it consists of non-residential development.
6. **Transportation**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), master plan, and prior Subdivision Regulations to provide the appropriate transportation recommendations.

MPOT and Master Plan Conformance

Master Plan Right-of-Way

The subject property fronts MD 214 (Central Avenue), which is designated as a master-planned arterial road (A-32) with a recommended variable width right-of-way of 120 to 150 feet. The subject property also fronts Hill Road, a master-planned collector road (C-407) with a recommended right-of-way of 80 feet. The submitted plans accurately display the master plan right-of-way and proposed road dedication of approximately 0.125 acre along MD 214, to accommodate additional traffic that will be generated by the subdivision.

Master Plan Pedestrian and Bike Facilities

Two master-planned facilities impact the subject site, which include:

- Bike Lane: MD 214
- Shared roadway: Hill Road

The MPOT provides policy guidance regarding multimodal transportation, and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling.

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

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

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

The master plan also recommends the following policies regarding multi-modal transportation (page 234):

Roadway Policies

Policy 2: The transportation system must have efficient access to residential, commercial, and employment areas with improvements to existing roadways and new roadways and minimizing dislocation and disruption resulting from the implementation of these recommendations.

Policy 5: Ensure the transportation facilities are adequate prior to the approval of any new development within established neighborhoods and in the designated centers in accordance with the procedures provided in the County Code.

Pedestrians, Bicycles, and Trails

Policy 1: Incorporate appropriate pedestrian-oriented and TOD features in the centers.

Policy 2: Provide sidewalks and neighborhood trail connections within existing communities to improve pedestrian safety, allow for safe routes to Metro stations and schools, and provide for increased non-motorized connectivity between neighborhoods.

Policy 3: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO Guide for the Development of Bicycle Facilities.

Staff recommend the applicant provide a minimum 5-foot-wide bicycle lane and signage along the frontage of MD 214, and shared road pavement markings and signage along the property frontage of Hill Road. Minimum 5-foot-wide sidewalks are also recommended along all roadway frontages, as well as direct connections from the frontages to the building entrances. In addition, staff recommend marked crosswalks and Americans with Disabilities Act compliant curb ramps be provided at all access points. Bicycle parking is also recommended to be provided no more than 50 feet from the building entrances, in accordance with the recommendations of the American Association of State Highway and Transportation Officials (AASHTO) and the 2015 Association of Pedestrian and Bicycle Professionals, *Essentials of Bicycle Parking*. Staff find that the proposed and recommended pedestrian and bicycle facilities accommodate multi-modal use, continuous connection, and support the goals and intent of the MPOT and master plan.

Access and Circulation

The applicant proposes two vehicle access driveways for the subject site. Full movement access is provided along Hill Road, and a right-in/right-out access is provided along MD 214. These access driveways and on-site circulation are proposed to be shared by the two parcels, to provide safe vehicular access and circulation while limiting the number of access driveways onto public rights-of-way. Section 24-128(b)(9) of the prior Subdivision Regulations allows for the use of private easements, when deemed appropriate by the Prince George's County Planning Board, for shared access where potentially hazardous or dangerous traffic situations would be caused by individual lots having direct access to a public street. Given the property location at the intersection of Hill Road and MD 214, and because MD 214 is an arterial right-of-way, access should be limited to the minimum necessary. The proposal reduces additional unnecessary access and potential conflicts. Therefore, staff find that use of an access easement, in accordance with Section 24-128(b)(9), is appropriate for the subject site.

The PPS delineates a proposed access easement extending from the MD 214 access driveway; however, the limits shown for this easement would be insufficient to provide shared access and circulation between the two parcels. This is because the limits do not extend to the Hill Road access driveway, and do not account for the locations of the driveways between the two parcels, which are not shown on the PPS, and will be further determined at the time of DSP and/or permitting, depending on the specific uses proposed. The recorded access easement or covenant should be noted on the final plat for the property, however, the location of the internal circulation between MD 214 and Hill Road may not be determined until the time of permitting, when the final plat would already be recorded. For this reason, staff recommend that the applicant not delineate boundaries for the access easement and should instead record a blanket shared access easement or covenant over the two parcels.

A variation request for access to the subject site via MD 214 has been submitted and reviewed as part of the PPS application. Section 24-121(a)(3) of the prior Subdivision Regulations requires that lots proposed on land adjacent to an existing or proposed planned roadway of arterial or higher classification be designed to front on either an interior street or service roadway.

Section 24-113(a) of the prior Subdivision Regulations sets forth the required findings for approval of variation requests, as follows:

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

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

The portion of MD 214 that fronts the subject site is a six-lane divided arterial roadway. The applicant proposes to construct one access driveway along MD 214, which will provide access to both parcels on the subject site. As part of the PPS submission, the applicant submitted a truck turning and circulation plan demonstrating vehicular access operations from MD 214. The plan shows that the right-in/right-out access driveway will allow for the necessary circulation for larger classifications of vehicles to enter and exit the site. Staff also find that the location of the right-in/right-out access driveway will not impact traffic operations along this roadway, and therefore, will not be detrimental to the public safety, health, or welfare, or injurious to other property.

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

This site is unique in that it is confined by MD 214 to the south, the underground railway of the Metro Blue Line to the north, and Hill Road to the east. The property configuration is the result of prior right-of-way acquisition for these roadways and is not deep enough to provide for a service road along MD 214, for access. However, the collective property is proposed for shared access and circulation in order to limit access while providing adequate circulation. Larger vehicles will be able to enter from MD 214 and access loading spaces near the site's frontage, and ultimately exit the site along Hill Road. This will minimize the vehicular and pedestrian conflicts within the site, as larger vehicles will not be required to cross pedestrian paths, or the entrances of buildings.

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

The approval of a variation from Section 24-121(a)(3) is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. Staff are not aware of any other law, ordinance, or regulation that would be violated by this request. The PPS shows the proposed access along MD 214 as limited to right-in/right-out, the design of which will also require the approval of the Maryland State Highway Administration at the time of permitting, regardless of the authority of the Planning Board in granting this variation.

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

The location and configuration of the property at the intersection of MD 214 and Hill Road creates a situation where normal compliance would limit access to Hill Road only. This limitation would create safety issues for circulating the site, forcing all vehicles to enter and weave through parking areas before exiting back onto Hill Road, which results in a particular hardship to the owner for design and use of the site in a safe and efficient manner. Allowing limited access to MD 214 alleviates on-site congestion and conflicts with pedestrians, while allowing the free flow of traffic on-site and off-site, which better serves the purposes of Subtitle 24.

- (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 current application does not propose multifamily dwellings. Therefore, this criterion is not applicable.

Based on the preceding findings, staff find the purposes of Subtitle 24 are served to a greater extent by the alternative proposal set forth and recommend approval of the variation from Section 24-121(a)(3), for one direct access driveway to MD 214, a master-planned arterial right-of-way.

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 Chapter (9) regarding public facilities. The master plan also contains goals for the following facilities: schools, libraries, public safety, parks and recreation, solid waste management/recycling, and water and sewer facilities.

The introduction to the chapter provides the overall vision for the provision of public facilities:

“Public facilities are provided in locations that serve and promote a more livable community. Schools are not overcrowded and are convenient to foster learning. Police, fire, and rescue services are located where response time is minimal, and library services are located in proximity to users. There is a variety of high quality, safe, and convenient recreational facilities to service all residents. Recreational opportunities contribute to community desirability and are critical to creating a preferred and livable community.”

The proposed development will not impede achievement of the above-referenced vision, policy, or specific facility improvements. The analysis provided with approved Certificate of Adequacy ADQ-2022-015 illustrates that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the proposed development. As discussed below, water and sewer service are also adequate to serve the proposed development. There are no master-planned police, fire and emergency medical service facilities, public schools, parks, or libraries proposed on the subject property.

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades, 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, which 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 a minimum of 10 feet wide along both sides of all public rights-of-way. The site abuts Hill Road to the east and MD 214 to the south. The required PUEs are reflected on the PPS, along both public rights-of-way.

9. **Historic**—The master plan contains goals and policies related to historic preservation (pages 287–296). However, these are not specific to the subject site. The property was included in a 1974 archeological survey associated with MD 214, and a later 1997 survey for the Metro Blue Line. The subject property contains the Wilburn House No.2 (PG:72-476), a modest American four square-type house, built in 1936. The structure was documented with three outbuildings on a Maryland Inventory of Historic Properties form, in November 1995. No additional archeology or documentation is recommended. The subject property does not contain, and is not adjacent to, any designated Prince George’s County historic sites or resources.
10. **Environmental**—The following applications and associated plans were previously reviewed for the subject site:

Development Review Case Number	Associated Tree Conservation Plan Number	Authority	Status	Action Date	Resolution Number
N/A	NRI-163-2020	Staff	Approved	1/19/2021	N/A
DSP-21003	TCP2-034-2021	Planning Board	Pending	Pending	Pending
4-22014	TCP1-005-2024	Planning Board	Pending	Pending	Pending

Grandfathering

The project is subject to the environmental regulations contained in Subtitle 25 and prior Subtitles 24 and 27 because the application is for a new PPS.

Site Description

The site currently consists of 2.33 acres of woodlands on-site. A review of the available information identified that regulated environmental features (REF) such as 100-year floodplain, streams, wetlands, associated buffers, and primary management area do not exist on-site; however, areas of steep slopes exist on-site. This site is located in the Lower Beaverdam Creek portion of the Anacostia River watershed. In a letter dated November 18, 2020, the Maryland Department of Natural Resources Wildlife and Heritage Service determined that there are no state records for rare, threatened, or endangered species within the boundary of the project site. According to PGAtlas, forest interior dwelling species habitat does not exist on-site.

Plan 2035

The site is located within the Environmental Strategy Area 1 of the Regulated Environmental Protection Areas Map, as designated by Plan 2035.

Environmental Conformance with Applicable Plans

Master Plan Conformance

The master plan contains guidelines in the Environmental Envelope section. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the master plan, and the plain text provides comments on the plan's conformance.

Policy 1: Protect, preserve and enhance the green infrastructure network in Subregion 4.

The Green Infrastructure Plan of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* identifies an evaluation area located on Parcel 179, which covers approximately half of the entire project area. However, as demonstrated on the approved natural resources inventory (NRI), there are no REFs on-site to protect, preserve, or enhance.

Policy 2: Minimize the impacts of development on the green infrastructure network and SCA's.

The site has an evaluation area located on Parcel 179, which covers approximately half of the entire project area. No special conservation areas have been identified on-site. There are no REFs on-site that will be impacted by development.

Policy 3: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded.

The approved SWM concept plan shows the use of eight micro-bioretenion facilities to manage the stormwater for the development.

Policy 4: Improve the base information needed for the County to undertake and support stream restoration and mitigation projects.

The site has an approved NRI that details existing conditions of the site. No streams were identified on-site.

Policy 5: Require on-site management of stormwater through the use of environmentally sensitive stormwater management techniques (i.e., fully implement the requirements of ESD) for all development and redevelopment projects.

The approved SWM concept plan shows the use of eight micro-bioretenion facilities to manage the stormwater for the development.

Policy 6: Assure that adequate stream buffers are maintained and enhanced and utilized design measures to protect water quality.

The site has an approved NRI that details existing conditions of the site. No streams or stream buffers were identified on-site.

Policy 7: Reduce air pollution to support public health and wellness by placing a high priority on transit-oriented development and transportation demand management (TDM) projects and programs.

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

Policy 8: Reduce adverse noise impacts so that the State of Maryland's noise standards are met.

No residential uses are proposed which would require to be regulated from noise impacts. The site development and operation will be regulated for noise through the permitting process.

Policy 9: Implement environmentally sensitive building techniques that reduce overall energy consumption.

The development applications for the subject property which require architectural approval should incorporate green building techniques and the use of environmentally sensitive building techniques to reduce overall energy consumption. The use of green building techniques and energy conservation techniques should be encouraged and implemented to the greatest extent possible.

Policy 10: Implement land use policies that encourage infill and support TOD and walkable neighborhoods.

This site is not an infill site and is not within a Plan 2035 transit center.

Policy 12: Ensure that the Chesapeake Bay Critical Area is protected to the maximum extent possible through the implementation of water quality and other related measures.

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

Policy 13: Preserve, restore, and enhance the existing tree canopy.

Policy 14: Improve the county's capacity to support increases in the tree canopy.

Compliance with the Prince George's County Tree Canopy Coverage Ordinance (Subtitle 25 Division 3) must be addressed at the time of DSP review, and shown on the landscape plan reviewed by the Urban Design Section.

Conformance with the Green Infrastructure Plan

The Green Infrastructure Plan was approved with the adoption of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017), on March 7, 2017. According to the approved Green Infrastructure Plan, there is an evaluation area located on Parcel 179, which covers approximately half of the entire project area. While the green infrastructure elements mapped on the subject site will be impacted, there are no REFs on-site. The design of the site meets the zoning requirements and the intent of the growth pattern established in Plan 2035.

Environmental Review

Natural Resources Inventory/Existing Conditions

Approved NRI-163-2020 was submitted with the PPS. Approximately two thirds of the site is wooded with one specimen tree. There are no REFs on-site. No additional information is required for conformance to the NRI.

Woodland Conservation

The site is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size and contains more than 10,000 square feet of woodland. A Type 1 Tree Conservation Plan, TCP1-005-2024, was submitted with this PPS.

Based on the TCP1, the site is 3.71 acres, contains 2.33 acres of woodland in the net tract, and has a woodland conservation threshold of 0.74 acre (20 percent). The woodland conservation worksheet proposes the removal of 2.33 acres of woodland, for a woodland conservation requirement of 1.91 acres. According to the TCP1 worksheet, the requirement is proposed to be met with fee-in-lieu for 1.91 acres. However, the applicant did submit a statement of justification (SOJ) for the use of off-site woodland conservation credits to meet the woodland conservation requirement. Staff do not support the use of fee-in-lieu and recommend that the woodland conservation requirement be met using off-site woodland mitigation credits.

Section 25-122(c)(1) of the WCO prioritizes methods to meet woodland conservation requirements. The applicant submitted an SOJ dated August 9, 2023, demonstrating why all the woodland conservation requirements could not be met on-site. Approximately one third of the site is currently developed with buildings and parking areas. This area will be redeveloped with the development of the entire site for commercial use. The woodlands on-site are heavily inundated with invasive plant species which has resulted in a low- to medium-quality woodland, which is not suited for preservation. Based on the scope of the site and proposed use, the size of the site will not adequately support on-site afforestation/reforestation. Staff support the on-site woodland clearing and the request to use off-site woodland mitigation credits.

Any forest mitigation banks used to satisfy off-site woodland conservation requirements for this project must conform to Subtitle 25 of the Prince George's County Code and Sections 5-1601 through 5-1613 of the Natural Resources Article of the Maryland Code (the Maryland Forest Conservation Act), as amended.

In accordance with Subtitle 25, Division 2, Section 25-122, Methods for Meeting the Woodland and Wildlife Conservation Requirements, of the Prince George's County Code, if off-site woodland conservation is approved to meet the requirements, then the following locations shall be considered in the order listed: within the same eight-digit sub-watershed, within the same watershed, within the same river basin, within the same growth policy tier, or within Prince George's County. Applicants shall demonstrate to the Planning Director or designee due diligence in seeking out opportunities for off-site woodland conservation locations following these priorities. All woodland conservation is required to be met within Prince George's County.

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. The design shall either preserve the critical root zone of each tree in its entirety, or preserve an appropriate percentage of the critical root zone, in keeping with the tree’s condition, and the species’ ability to survive construction, as provided in the [Environmental] Technical Manual.” 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 Maryland Code. 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) of the County Code. Section 25-119(d)(4) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

A Subtitle 25 variance letter of justification (LOJ) dated February 1, 2024, was submitted for review with this application. The approved NRI-163-2020 identifies one specimen tree on-site. The following analysis is the review of the request to remove one specimen tree.

The LOJ requests the removal of one specimen tree identified as ST-1. The condition of the tree proposed for removal is rated as good. The TCP1 shows the location of the tree proposed for removal for development of the site and associated infrastructure.

Specimen Tree Number	Common Name	Construction Tolerance	Condition	Size (DBA)	Impacted by Design Elements
ST-1	Tulip poplar	Poor	Good	30.0	Remove for SWM

Evaluation

Section 25-119(d) contains six required findings (text in **bold** below) to be made before a variance to the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below. Staff support the removal of one specimen tree requested by the applicant, based on these findings:

(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 one specimen tree identified as ST-1. Those “special conditions” relate to the specimen trees themselves, such as their size, condition, species, and on-site location.

The species proposed for removal is a tulip poplar, which is located within the area of a proposed SWM facility and roadway. The condition rating of this tree is good; however, the species has a poor construction tolerance.

Staff find that Specimen Tree ST-1 is integral to the developable portion of the site, the creation of the roads needed for automobile circulation within the site, and for construction of SWM facilities to detain and safely convey

stormwater off-site. Retention of the tree would have a considerable impact on the proposed development by creating challenges for building siting, and for adequate circulation and infrastructure through the site.

(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 critical root zone, 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 Environmental Technical Manual for site-specific conditions. Specimen trees grow to such a large size because they are 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 tree proposed for removal, retaining the tree and avoiding disturbance to the critical root zone of Specimen Tree ST-1, would have a considerable impact on the development potential of the property. The proposed commercial development is a use that aligns in the R-T and R-18C Zones. If similar trees were encountered on other sites, they would be evaluated under the same criteria.

(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 Specimen Tree ST-1 would prevent the project from being developed in a functional and efficient manner. This is not a special privilege that would be denied to other applicants. If other similar developments featured REFs 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 tree, is not the result of actions by the applicant. The location of the tree and other natural features throughout the property is based on natural or intentional circumstances that long predate the applicant's interest in developing this site. The removal of one specimen tree would be the result of the infrastructure and grading required for the development of this project, as proposed by the applicant. The request to remove the tree is solely based on the tree's locations 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.

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 tree. The tree has grown to specimen tree size based on natural conditions and has 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 not 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 are reviewed and approved by the Prince George's County Soil Conservation District. 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.

Conclusion

The required findings of Section 25-119(d) have been adequately addressed for the removal of one specimen tree identified as ST-1. Staff recommend that the Planning Board approve the requested variance for the removal of one specimen tree, for the construction of a commercial development.

Preservation of Regulated Environmental Features/Primary Management Area

The site does not contain any REFs.

Soils

The predominant soils found to occur on-site, according to the United States Department of Agriculture Natural Resource Conservation Service Web Soil Survey, include Collington-Wist complex, Udorthents, highway and Urban land-Collington-Wist complex. No unsafe soils containing Marlboro clay or Christiana complexes have been identified on this site. No additional information regarding soils is required with the PPS.

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 uses conceptually include a food or beverage store in combination with a gas station and eating and drinking establishment with drive-through service. A food or beverage store in combination with a gas station is permitted by right in the R-18C Zone, per Footnote 137, in Section 27-441 of the prior Zoning Ordinance, subject to the approval of DSP-21003, pursuant to Section 27-1703(a). 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:

- Sections 27-437, 27-433, 27-441, and 27-442, requirements for the prior R-18C and R-T Zone, as applicable.
- Part 11. - Off-Street Parking and Loading
- Part 12. - Signs.
- Part 3, Division 9. - Site Plans.

An eating and drinking establishment with drive-through service is not permitted in the R-18C Zone, however, the applicant may elect to utilize the current Zoning Ordinance at any stage of development. This use is permitted under the current RMF-20 zoning of the property. The uses are not approved at the time of PPS, and will be reviewed for conformance with the prior or current Zoning Ordinance, as applicable, prior to the approval of building permits. Under either ordinance, the development will be required to also comply with the applicable Landscape Manual requirements and the Prince George's County Tree Canopy Coverage Ordinance.

- 12. Community Feedback**—At the Planning Board meeting held on May 2, 2024, the applicant requested the hearing on the PPS be continued to June 27, 2024, to allow time for the applicant to work with the Coalition of Central Prince George's County Community Organizations (Coalition), on issues related to development of the property. At the time of the May 2nd hearing, the Coalition had not yet taken a position on the PPS application. Two representatives of the Coalition signed up to speak at the May 2nd hearing, and correspondence with one representative indicated agreement with the continuance and intent to meet with the applicant. At the time of the writing of this technical staff report, the Prince George's County Planning Department had not received any further correspondence from the Coalition.

Staff received correspondence by phone, from the former owner of Parcel 179, one of the existing parcels of the property. The former owner is opposed to the development on the grounds that when they sold their land to the current property owner, RE Capital Group LLC, they intended to sell only 2.1 acres of land; yet the current property owner obtained ownership over the entirety of Parcel 179 (approximately 13 acres) instead. The owner stated that an action was filed in the Prince George's County Circuit Court to address the dispute. As shown in the most recent deed for Parcel 179, recorded in Book 48964 page 314 of the Prince George's County Land Records, RE Capital Group LLC currently owns all of Parcel 179. The dispute is not over current ownership, but rather over the proceedings leading to the sale of the property. Therefore, the dispute is a private matter that should not be adjudicated by the Planning Board, and it is not germane to the approval of the PPS.

The Greater Capitol Heights Improvement Corporation (GCHIC) submitted a letter dated April 28, 2024, stating their opposition to the development. The GCHIC's specific objections are that Prince George's County Council Bill CB-63-2019 (discussed in the Community Planning finding of this technical staff report) constitutes unlawful spot zoning, and that the PPS does not conform to the applicable comprehensive plans (specifically the master plan).

Staff find that the claim that CB-63-2019 constitutes unlawful spot zoning is not germane to the approval of the subject PPS. CB-63-2019 was previously approved by the District Council on November 19, 2019, and it is not the subject of the current application. The bill

allows a food and beverage store in combination with a gas station in the R18-C and R-T Zones, under certain circumstances. However, while these proposed uses were evaluated during the review of the PPS, the PPS does not approve any specific uses for the property. Specific uses for the property will instead be determined at the time of DSP and permitting. The PPS, if approved, could potentially be used to support development of another use permitted under the zoning, so long as the new proposed use does not constitute a substantial revision affecting the Subtitle 24 findings of the PPS and associated ADQ.

Staff agree that the proposed food and beverage store and gas station do not conform to the land use recommendations of the master plan, as discussed in the Community Planning finding of this technical staff report. However, as further discussed in that finding, staff found that, pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, events have occurred to render the land use recommendation of the master plan no longer relevant, given the legislative amendments and zoning of the property.

At the time of the writing of this technical staff report, the Prince George's County Planning Department had not received any other correspondence from the community regarding 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. Remove the delineation and label of the proposed access easement and instead provide a general note indicating that Parcels 1 and 2 will be subject to a blanket cross access easement or covenant approved pursuant to Section 24-128(b)(9) of the prior Prince George's County Subdivision Regulations.
 - b. In General Note 1, update the recording reference for Parcel 179, to reflect the most recent deed for the property.
 - c. In General Note 12, add a note stating that the PPS was submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations.
 - d. Add a general note indicating approval of a variation from Section 24-121(a)(3) of the prior Prince George's County Subdivision Regulations, for one direct access driveway to MD 214 (Central Avenue).
 - e. Remove the portion of the boundary between Parcels 1 and 2, which extends into the proposed road dedication area along MD 214 (Central Avenue).
2. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan shall be revised as follows:

- a. Add the following note below the specimen tree table:

“This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on [ADD DATE] for the removal of specimen tree ST-1.”
 - b. Correct the worksheet to reflect that the woodland conservation requirement will be met using off-site woodland mitigation credits.
 - c. Have the plans signed and dated by the qualified professional who prepared them.
 - d. Show the limits of right-of-way dedication to MD 214 (Central Avenue), the limits of the 10-foot-wide public utility easement along Central Avenue, and the limits of the 20-foot-wide Washington Suburban Sanitary Commission easement consistently with the preliminary plan of subdivision.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan 6399-2021-00 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 along MD 214 (Central Avenue), in accordance with the preliminary plan of subdivision.
 - c. A note indicating approval of a variation from Section 24-121(a)(3) of the prior Prince George’s County Subdivision Regulations, for one direct access driveway to MD 214 (Central Avenue).
 5. In conformance with the 2009 *Approved Countywide Master Plan of Transportation* and the 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment*, the applicant and the applicant’s heirs, successors, and/or assignees shall construct the following facilities, and shall submit a bicycle and pedestrian plan with the detailed site plan which displays the details, location, and extent of the following facilities:
 - a. A minimum 5-foot-wide bicycle lane and signage along the subject property’s frontage of MD 214 (Central Avenue), unless modified by the operating agencies with written correspondence.
 - b. Shared road pavement markings and signage along the property’s frontage of Hill Road, unless modified by the operating agencies with written correspondence.
 - c. Minimum 5-foot-wide sidewalk along the property frontage of MD 214 (Central Avenue) and Hill Road, unless modified by the operating agencies with written correspondence.

- d. Direct pedestrian connections from MD 214 (Central Avenue) and Hill Road to the building entrance.
 - e. Inverted U-style, or similar style bicycle parking racks at locations no more than 50 feet from the entrances to all buildings.
 - f. Continental style crosswalks and Americans with Disabilities Act complaint curb ramps at all access points and throughout the site.
6. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-005-2024). 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 (TCP1-005-2024), 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. Prior to issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved.
 8. Access along MD 214 (Central Avenue) shall be limited to a single right-in/right-out configuration only, subject to the approval and modifications by the Maryland State Highway Administration, with written correspondence.
 9. Prior to approval of the final plat of subdivision, a draft access easement or covenant for shared access to the parcels shall be reviewed and approved by the Subdivision Section of the Development Review Division of the Prince George’s County Planning Department and be fully executed. The easement or covenant shall set forth the rights, responsibilities, and liabilities of the parties, and shall include the rights of the Prince George’s County Planning Board. The easement or covenant shall be recorded in the Prince George’s County Land Records, and the recording reference shall be indicated on the final plat, prior to plat recordation.
 10. Prior to approval of building permits, the applicant and the applicant’s heirs, successors, and/or assignees shall convey Outlot A to the Washington Metropolitan Area Transit Authority, as identified on the approved preliminary plan of subdivision.

STAFF RECOMMEND:

- Approval of Preliminary Plan of Subdivision 4-22014
- Approval of Type 1 Tree Conservation Plan TCP1-005-2024

- Approval of a Variance to Section 25-122(b)(1)(G)
- Approval of a Variation from Section 24-121(a)(3)