

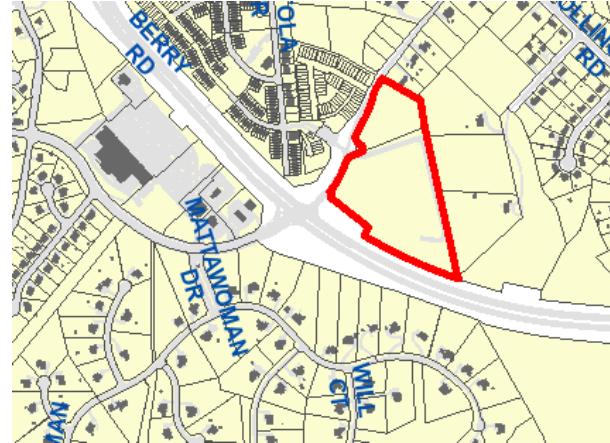


# Conceptual Site Plan Remand Hearing Signature Club East

**CSP-23002**

REQUEST	STAFF RECOMMENDATION
Remand Hearing  Development of up to 300 multifamily dwelling units and 12,600 square feet of commercial/retail space.	With the conditions recommended herein: <ul style="list-style-type: none"><li>• APPROVAL of Conceptual Site Plan CSP-23002</li><li>• APPROVAL of Type 1 Tree Conservation Plan TCP1-052-97-03</li><li>• APPROVAL of a Variance to Section 25-122(b)(1)(G)</li></ul>

<b>Location:</b> In the northeast quadrant of the intersection of MD 228 (Berry Road) and Manning Road East.	
Gross Acreage:	16.90
Zone:	RMF-48
Prior Zone:	M-X-T
Reviewed per prior Zoning Ordinance:	Section 27-1900
Dwelling Units:	300
Gross Floor Area:	337,600 sq. ft.
Planning Area:	84
Council District:	09
Municipality:	None
<b>Applicant/Address:</b> Signature 2013 Commercial, L.L.C. 136 Eareckson Lane, Stevensville, MD 21666	
<b>Staff Reviewer:</b> Te-Sheng (Emery) Huang <b>Phone Number:</b> 301-952-4534 <b>Email:</b> <a href="mailto:Tesheng.Huang@ppd.mncppc.org">Tesheng.Huang@ppd.mncppc.org</a>	



Planning Board Date:	01/15/2026
Planning Board Action Limit:	01/18/2026
Staff Report Date:	12/29/2025
Date Accepted:	02/26/2024
Informational Mailing:	11/14/2023
Acceptance Mailing:	01/05/2024
Sign Posting Deadline:	12/16/2025



December 29, 2025

## MEMORANDUM

TO: The Prince George's County Planning Board

VIA: Hyojung Garland, Supervisor, Urban Design Section *TH* for HG  
Development Review Division

FROM: Te-Sheng (Emery) Huang, Planner IV, Urban Design Section *TH*  
Development Review Division

SUBJECT: **Conceptual Site Plan CSP-23002 (Remand)**  
**Signature Club East**

## BACKGROUND

Conceptual Site Plan CSP-23002, Signature Club East, for the development of up to 300 multifamily dwelling units and 12,600 square feet of commercial/retail space, in the Mixed Use-Transportation Oriented (M-X-T) Zone, was approved by the Prince George's County Planning Board on July 10, 2025, and a resolution memorializing the Planning Board's decision (PGCPB Resolution No. 2025-057) was adopted on July 31, 2025. The Planning Board's decision was appealed to the Prince George's County District Council by Carolyn Keenan, Jordan Eberst, Robyn Braswell, Brittney Braswell, Tatiana Gomez, Laura Sanchez Ramirez, Alexander Gomez, Rana Dotson, Julian Dotson, Caleb Dotson, Victor Christiansen, Vincent Ambrosino, and Janet Taylor ("Appellants"). On October 21, 2025, without conducting oral argument, the District Council directed the preparation of an Order of Remand on all issues raised in the appeal. The Order of Remand was issued by the District Council on November 4, 2025.

As explained in the Order or Remand, the District Council sits in an appellate capacity when reviewing a final decision of the Planning Board approving a CSP. As an appellate body, the District Council is limited to determining if there is substantial evidence in the record as a whole to support the Planning Board's findings and conclusions, and to determine if the Board's decision is based on an erroneous conclusion of law. It cannot, however, substitute its judgment for that of the Planning Board. The Planning Board's decisions receive even more deferential review regarding matters that are committed to the Board's discretion and expertise. In such situations, the District Council may only reverse the Planning Board's if its decision is found to be arbitrary and capricious. See, *Cnty. Council of Prince George's Cnty. v. Zimmer Dev. Co.*, 444 Md. 490, 573-74 (2015). A decision of the Planning Board's is generally owed no deference, however, when its conclusions are based upon an error of law. See, *County Council of Prince George's County v. FCW Justice, Inc.*, 238 Md.App. 641, 668 (2018).

On October 21, 2025, counsel for the applicant, WP East Acquisitions, L.L.C. ("Applicant") requested the District Council issue a "limited order of remand" because the record of the case was "a little confusing" on issues related to the preservation of trees. Counsel for the Appellants opposed the remand request and asked for full oral argument. People's Zoning Counsel recommended the District Council issue an order of remand "for all of the exceptions" raised by Appellants, The Order of Remand found the Planning Board's decision lacked sufficient "well-reasoned and articulated administrative findings" to enable the District Council to conduct meaningful review and requested the Planning Board conduct a hearing to take additional testimony on nine issues as further discussed below. Pursuant to prior decisions of the District Council, the remand hearing must be conducted, and any revised resolution adopted, within 60 days of the date the notice of remand is transmitted from the Clerk of the Council, not including the period between and inclusive of December 20 and January 3.

## ORDER OF REMAND FINDINGS

The Order of Remand was mailed to all parties of record on November 4, 2025. Within the Order of Remand, the District Council outlined nine issues to be addressed, shown in **bold** below, followed by staff analysis, in plain text:

- 1. Clarify, based on new administrative findings, the history of all Tree Conservation Plans and prior designation of Lot 12 as a forest retention area and the impact of each or same on the overall development of the property proposed in the CSP application and provide additional administrative findings to address the Opposition remove the woodland preservation areas on Lot 12 and Outparcel B would violate the Woodland Conservation Ordinance and that off-site preservation proposed in the CSP application does not compensate for the removal of the woodland preservation areas.**

This application is part of a larger Type I Tree Conservation Plan TCPI-052-97, containing 343.65 acres. The overall TCPI includes the Manokeek, Manokeek Village Center, and Signature Club at Manning Village developments. The TCP associated with this CSP is grandfathered from current woodland conservation ordinance regulations because the two subject parcels (Lot 12 and Outparcel B) have been part of an approved Type II Tree Conservation Plan, TCPII-116-01, which was previously implemented in accordance with Section 25-119(g)(1) of the Woodland Conservation Ordinance, and the property has been partially developed with a stormwater management (SWM) facility. The approved TCPII-039-01-02 shows Lot 12 labeled "Future Development" with woodland clearing and some woodland preservation along the north and east boundary.

Outparcels A and B retained grandfathering with approved Preliminary Plan of Subdivision (PPS) 4-01065 and companion TCPI-025-01, which received later approval via TCPII-116-01 and was implemented by grading. It is noted that Outparcel A is not part of this CSP application, but was included together with Outparcel B on prior TCPs (e.g., TCPII-116-01 and TCPI-025-01). TCPI-025-01 and TCPII-039-01 and subsequent revisions show future woodland clearing and development on both Outparcel B and Lot 12. A breakdown analysis below shows what has been represented with Lot 12 and Outparcel B in approved development applications.

## **Overview of Lot 12 and Outparcel B TCP2s**

**Manokeek** (Application Case: CSP-99050; TCPI-052-97; PGCPB No. 00-142, and 4-97091; TCPI-052-97; PGCPB No. 98-22(A)/I. Both cases were approved on July 27, 2000.)

TCPI-052-97 showed all the development area within CSP-99050, including both future residential and commercial uses. This TCPI included Lot 12 (called Outlot 3). Lot 12 was shown as having cleared woodlands, and a SWM pond installed. The plan represents 2.167 acres of woodland preservation and 0.7 acre of reforestation.

**Manokeek Outparcel B and Lot 12** (Application Case: PPS 4-01064; TCPI-052-97-01 and TCPI-025-01; PGCPB No. 02-08, approved on February 7, 2002)

PPS 4-01064 included Outparcel B and Lot 12. While Lot 12 was included in TCPI-052-97-01, Outparcel B was included in TCPI-025-01. Lot 12 was approved for mixed retail and office development. While no development was approved for Outparcel B, it was noted that future development of Outparcel B would require a new PPS. TCPI-025-01 showed tree preservation of 0.62 acre on Outparcel B. TCPI-052-97-01 showed both tree preservation and reforestation of 2.867 acres.

**Manokeek** (Application Case: 4-01063; TCPI-052-97-01; PGCPB No. 02-07(A)(C), approved on January 10, 2002)

PPS 4-01063 was for residential development of Outlot 2. TCPI-052-97-01 included Lot 12, which was improved with a SWM pond and 10.04 acres of preservation.

**Manokeek** (Application Case: CSP-99050-01; TCPI-052-97-02; PGCPB No. 05-228 approved on November 3, 2005)

CSP-99050-01 was for revisions to Outlot 2 only. TCPI-052-97-02 included Lot 12 labeled as "Future Development anticipated per CSP-99050". The TCPI showed Lot 12 as being cleared with 0.30 acre of woodland preservation and 0.48 acre of preservation "not counted."

**Signature Club East** (Application Case: CSP-23002, TCPI-052-97-03)

TCPI-052-97-03, associated with the subject application, includes both Outparcel B and Lot 12, which are zoned M-X-T. This TCPI shows no on-site preservation areas.

**Manokeek (Vincent Property) Outparcel A and B** (Application Case A-9960-C; Zoning Ordinance No. 2-2006, approved on January 9, 2006, and PPS 4-01065; TCPI-025-01; PGCPB No. 02-09, approved on January 7, 2002)

On Outparcel B (Outlot B), TCPI-025-01 showed no proposed development improvements other than road improvements for Manning Road East. Outparcel B was shown with woodland clearing, 0.62 acre of preservation and 0.02 acre of preservation with a 35-foot width. Outparcel A (Outlot A) was shown cleared with 0.36 acre of preservation and 0.21 acre of preservation with a 35-foot width. The

standard minimum width for tree preservation was 35 feet in the 1991 Woodland Conservation Ordinance. 01

**Manokeek (Vincent Property) Outparcel A and B** (Application Case: TCPII-116-01)

TCPII-116-01 showed a large, proposed stockpile area on Outparcel A and no development on Outparcel B. The plan showed tree preservation of 3.90 acres on Outparcel B and clearing for the proposed stockpile on Outparcel A with 2.60 acres of woodland preservation. This development provided 1.06 acres of afforestation as off-site Woodland Credits.

**Addition to Signature Club at Manning Village** (Application Case: TCP2-033-2023)

TCP2-033-2023 is only for Outparcel A, which was approved for townhouse development, and Outparcel B is not shown on this TCP2. This is for informational purposes only, as prior approvals included Outparcel A and Outparcel B together.

**Manokeek Phase 1** (Application Case: TCPII-121-99)

TCPII-121-99 was part of TCPI-052-97 and subsequent revisions. This TCPII was for residential lots on the south side of MD 228 (Residential-Agricultural (R-A)/Rural Residential (R-R) zoned). The TCPII did not include Outparcel B and Lot 12. This TCPII provided off-site Woodland Credits, 3.00 acres of afforestation.

**Manokeek Commercial** (Application Case: DSP-01036; TCPII-112-01; PGCPB No. 01-251, approved on December 6, 2001)

TCPII-112-01 showed only the commercial area (Outlot 1) on the south side of MD 228. This TCPII did not include Lot 12 and Outparcel B. This TCPII provided 10.35 acres of off-site Woodland Credits and 3.46 acres of preservation and afforestation.

**Signature Club of Manning Village** (Application Case: DSP-04063; TCPII-039-01-01; PGCPB No. 05-250, approved on December 22, 2005)

TCPII-039-01-01 showed the residential lots (Outlot 2) on the north side of MD 228. This TCPII included Lot 12, which was shown labeled as "Future Development" and included clearing for a SWM pond with 10.10 acres of preservation. This TCPII did not include Outparcel B.

**Signature Club of Manning Village** (Application Case: DSP-04063-01; TCPII-039-01-02; a Director-level revision)

TCPII-039-01-02 included Lot 12, which was shown labeled as "Future Development" and included clearing for a SWM pond with 10.10 acres of preservation. This TCPII did not include Outparcel B.

**Signature Club** (Application Case: DSP-04063-04; TCPII-039-01-03; PGCPB No. 17-153(C), approved on December 7, 2017)

TCPII-039-01-03 included Lot 12, which was shown labeled as "Future Development" and included clearing for a SWM pond with 10.06 acres of preservation. This TCPII did not include Outparcel B.

The overall TCP, which includes the Manokeek, Manokeek Village Center, and Signature Club at Manning Village developments, has provided 22.65 acres of the 32.07 acres of off-site woodland conservation requirement. With this CSP, the overall project area requires a total of 9.42 acres of woodland conservation, which includes 7.81 acres deferred from previous applications. As proposed, the subject TCP1 for Signature Club East currently shows 1.61 acres of off-site mitigation, which shall be purchased prior to first permit of the subject development. A condition is included herein requiring the applicant to secure an additional 7.81 acres of off-site mitigation, in accordance with Section 25-122(a)(3) of the Woodland Conservation Ordinance, prior to certification of CSP-23002.

**2. State the accurate description and location of the property.**

The resolution has been revised to correct the scrivener's error in the WHEREAS clause that misidentified the location of the subject property. The subject property is located in the northeast quadrant of the intersection of MD 228 and Manning Road East as accurately identified in the application, throughout the record, and in all applicable notices. No further testimony is required to address this issue.

**3. State, based on new administrative findings, whether § 27-1704(a) of the New Zoning Ordinance contemplates the filing of a new CSP application to amend a previously approved CSP when the sole purpose of the new CSP application was solely intended to increase land approved in the previously approved CSP which, under § 27-1704(a) of the New Zoning Ordinance, may not be amended to increase land that was the subject of the previously approved CSP since such prior approval remains valid for twenty years from April 1, 2022.**

No further testimony is required on this issue. The resolution accurately identifies the source of law that entitled this application to proceed under the provisions of the prior Prince George's County Zoning Ordinance. The subject application was officially accepted on February 26, 2024. The applicant elected for the application to be reviewed pursuant to the Zoning Ordinance effective prior to April 1, 2022 (prior Zoning Ordinance) in accordance with Section 27-1900 *et. seq.* Pursuant to Section 27-1903(b) of the Zoning Ordinance, until April 1, 2025, an applicant was permitted to apply for a CSP pursuant to the requirements of the Zoning Ordinance in existence prior to April 1, 2022 ("prior Zoning Ordinance"), which allows for an applicant to add additional property to the application.

Whether the applicant had proceeded with an amendment to CSP-99050, or as a new CSP, the addition of 3.7 acres (Outparcel B) was permitted under the provisions of the prior Zoning Ordinance.

**4. State, based on new administrative findings, whether TCP1-052-97-03 conforms with the Countywide Green Infrastructure Functional Master Plan and subsequent area master plan revisions, including maps and text as required in PGCC § 25-121(a)(5).**

Pursuant to Section 27-542(a)(2) of the prior Zoning Ordinance, staff finds that this CSP conforms to the *Countywide Green Infrastructure Plan* and the *Approved Subregion 5 Master Plan* as follows:

### **Plan Prince George's 2035 Approved General Plan (2014)**

The site is located within Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map and in the Established Communities of the General Plan Growth Policy map, as designated by the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035). The project is not within the boundaries of a transit-oriented center as identified in Plan 2035.

### **2017 Green Infrastructure Plan**

The *Countywide Green Infrastructure Plan* (GI Plan) was approved on March 17, 2017, with the adoption of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017). According to the approved GI Plan, the on-site woodlands located in Lot 12 are within evaluation area, and woodlands within Outparcel B are located within both regulated and evaluation areas. The site has an approved Natural Resources Inventory (NRI-075-2022), which correctly shows the existing conditions of the property. There are five specimen trees on-site and five specimen trees located off-site. The site does not contain regulated environmental features (REF) as defined in Section 24-101(b)(27) of the prior Prince George's County Subdivision Regulations such as primary management area (PMA), streams, wetland, 100-year floodplain, and their associated buffers. The text in **bold** is text from the GI Plan, and the plain text provides comments on the plan's conformance.

### **POLICY 1: Preserve, enhance, and restore the green infrastructure network and its ecological functions while supporting the desired development pattern of Plan 2035.**

#### **1.1 Ensure that areas of connectivity and ecological functions are maintained, restored, and/or established by:**

- a. Using the designated green infrastructure network as a guide to decision-making and using it as an amenity in the site design and development review processes.**
- b. Protecting plant, fish, and wildlife habitats and maximizing the retention and/or restoration of the ecological potential of the landscape by prioritizing healthy, connected ecosystems for conservation.**

The GI Plan shows both regulated areas and evaluation areas on-site. According to the GI Plan, the on-site woodlands located in Lot 12 are within evaluation area and woodlands within Outparcel B are located within both regulated and evaluation areas. The regulated area is associated with a potential stream system. NRI-075-2022 shows the existing conditions of the property. This mapped regulated area was reviewed for streams and wetlands as part of the

NRI and did not identify a stream on-site. The site does not contain 100-year floodplain or REF as defined in Section 24-101(b)(27) of the prior Subdivision Regulations such as PMA, streams, wetland, and their associated buffers.

This application area contains no REF or PMA, but does include specimen trees. Adjacent uses consist of woodlands and single-family detached residential to the north and east; Manning Road to the west, with residential beyond; and MD 228 to the south, with residential beyond. The on-site woodlands are connected to three adjacent properties (Lot 1, Parcel 154, and Parcel 162), a 15.54-acre combined woodland and residential area to the east. No development plans have been submitted on the adjacent parcels and lot. The adjacent woodlands are not protected under a woodland conservation easement. The adjacent woodland areas, located on the adjacent three properties, do not have wildlife or ecological connectivity with other woodland areas.

This development is part of the overall Signature Club and Manokeek Village subdivision, and this is the last portion of the development that is undeveloped. Previous Signature Club and Manokeek Village development plans showed this area as being reserved for future development. The overall subdivision has met their requirement with on-site preservation, reforestation, and off-site woodland bank credits. As part of previous development plans, the on-site woodlands were used as preservation knowing that the site would be developed in the future. The submitted TCP1 shows no on-site woodland preservation and proposes to meet the requirement with off-site woodland bank credits.

**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 SCAs are located on or adjacent to this application. The Mattawoman Stream Valley Park area SCA is located several parcels to the east, away from Parcel 12. The southern corner of Lot 12 is 1,700 feet from Mattawoman Creek; MD 228, woodlands, and residential lots are located between Mattawoman Creek and the application area. PGAtlas identifies the application within a sensitive species review area. The NRI application includes a response letter from the Maryland Department of Natural Resources - Wildlife and Heritage Service stating that no rare, threatened, or endangered species are known on-site or in the vicinity of the subject application.

**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.**

The site contains no network gap network areas. Lot 12 is entirely within the evaluation area, and Outparcel B is identified within both regulated and evaluation areas. The regulated area indicates a stream system; however, this mapped regulated area was reviewed for streams and wetlands as part of the NRI and did not identify a stream on-site.

The application area is mostly wooded except for open areas for the existing SWM facility used by the adjacent Signature Club phases. Adjacent uses consist of woodlands and residential to the north and east; residential and Manning Road to the east; and MD 228 to the south. The on-site woodlands are connected to three adjacent properties (Lot 1, Parcel 154, and Parcel 162), a 15.54-acre combined woodland and residential area to the east.

No development plans have been submitted on these parcels and lots, and there is no woodland easement on this woodland area.

**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.**

The subject site is part of the overall Signature Club and Manokeek Village development, and this is the last portion of the project that is undeveloped. Previous Signature Club and Manokeek Village development plans showed this area as being reserved for future development. The overall development met the requirement with on-site preservation, reforestation, and off-site woodland bank credits. As part of previous development plans, the on-site woodlands were used as preservation knowing that the site would be developed in the future. The submitted TCP1 shows no on-site woodland preservation and proposes to meet the requirement with off-site woodland bank credits. Each phase of the previously approved applications was approved for the use of off-site woodland bank credits to meet the woodland conservation requirement. The TCP1 is in conformance with the prior approvals.

**POLICY 7: Preserve, enhance, connect, restore, and preserve 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 applicant proposes to meet the woodland requirement with 1.61 acres plus the unaccounted for 7.81 acres required by prior developments, for a total of 9.42 acres of off-site woodland bank credits, which is in conformance with prior TCP approvals.

The use of fee-in-lieu to provide the requirements was not requested, nor was it recommended. At the time of PPS, it is recommended that the applicant shall make every effort to provide additional woodland preservation or reforestation on-site, along the northern and eastern boundary. Prior to the issuance of permits, every effort should be made to purchase credits from an off-site woodland conservation bank within the Mattawoman Creek watershed.

**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.**

Retention of existing woodlands and planting of native species on-site is required by both the Environmental Technical Manual (ETM) and the 2018 *Prince George's County Landscape Manual* (Landscape Manual), and apply toward the tree canopy coverage (TCC) requirement for the development. TCC requirements will be evaluated at the time of the associated detailed site plan review.

**7.10 Continue to focus conservation efforts on preserving existing forests and ensuring sustainable connectivity between forest patches.**

This application is part of a larger TCP containing 343.65 acres. The overall TCP includes the Manokeek, Manokeek Village Center, and Signature Club at Manning Village developments. The overall development met woodland requirements with on-site preservation, reforestation, and off-site woodland credits. CSP-23002 is a 16.90-acre site (Lot 12 and Outparcel B) which is mostly wooded (13.32 acres) except where clearing had previously occurred for the installation of the existing SWM facility used by the Additions of Signature Club at Manning Village development.

The TCP1 shows no on-site preservation area within the area of the CSP, because the overall development woodland conservation requirement was met with each phase of the development. This application area is the last phase of the Manokeek and Signature Club at Manning Village developments. The applicant proposes no

on-site preservation or reforestation areas and proposes to meet the woodland requirement with off-site woodland credits. In accordance with Section 25-122(a)(3), every effort should be made to purchase credits from an off-site woodland conservation bank within the Mattawoman Creek watershed. It is recommended that the applicant shall make every effort to provide additional woodland preservation or reforestation along the northern and eastern boundary.

### **Approved Subregion 5 Master Plan and Sectional Map Amendment (July 2013)**

The site is located within the 2013 *Approved Subregion 5 Master Plan* (master plan). In the approved master plan, the Environmental Infrastructure section contains goals, policies, recommendations, and strategies. 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 plan conformance.

#### **Policy 1:**

- **Implement the master plan's desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.**
- **Ensure the new development incorporates open space, environmentally sensitive design, and mitigation activities.**
- **Protect, preserve and enhance the identified green infrastructure network within Subregion 5.**

The application area contains existing woodland and no REF in accordance with the approved NRI. The on-site woodlands located in Lot 12 are within evaluation area, and woodlands within Outparcel B are within both regulated and evaluation areas. NRI-075-2022 shows the existing conditions of the property. The site does not contain 100-year floodplain or REF as defined in Section 24-101(b)(27) of the prior Subdivision Regulations such as PMA, streams, wetland, and their associated buffers. This mapped regulated area was reviewed for streams and wetlands as part of the NRI and did not identify a stream on-site.

The development proposes a bio-retention SWM facility as shown on the unapproved SWM concept. This application proposes clearing all the on-site woodlands to the green infrastructure network for the proposed residential development. No on-site woodland preservation is proposed with this application.

#### **Policy 2:**

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

In accordance with this master plan policy, the proposed development will be subject to current stormwater management (SWM) requirements. This proposal is for the construction of the multifamily residential community. The SWM design is required to be reviewed and approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) to address surface water runoff issues in accordance with Subtitle 32: Water Quality Resources and Grading Code of the County Code. This requires that the environmental site design (ESD) be implemented to the maximum extent practicable.

An unapproved SWM Concept Plan, 35682-2023-SDC, was submitted with the application. The SWM concept plan shows the use of ESD elements to address water quality requirements, including micro-bioretention facilities and micro-bioretention planter boxes. Submittal of the approved SWM concept plan and approval letter reflective of the development proposed is required with the future preliminary plan submission.

The application area has an existing regional pond that was approved by DPIE with SWM Concept Plan No. 39068-2017-0. This stormwater pond serves the adjacent Addition to Signature Club subdivision, portions of Manning Road, and the subject application Signature Club East development. Conformance with the provisions of the County Code and state regulations with regards to SWM will be reviewed by DPIE prior to issuance of permits.

### **Policy 3:**

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

The geographic area of the CSP is within the Mattawoman Creek watershed in Environmental Strategies Area 2 (formerly the developing tier) and not in the rural tier. This application is not for a conservation subdivision. The southern property corner is over 1,230 linear feet from the floodplain and main stem of Mattawoman Creek. This main stem and floodplain of Mattawoman Creek is identified as a special conservation area in the Green Infrastructure Plan. Mattawoman Creek is identified in the Subregion 5 Master Plan as a Primary Corridor. This stream corridor is outside the application area. The NRI application includes a response letter from Maryland Department of Natural Resources Wildlife and Heritage Service stating that no rare, threatened, or endangered species are known on-site or in the vicinity of the subject application.

The unapproved SWM Concept Plan submitted with this application shows the use of ESD elements to address water quality requirements, including micro-bioretention facilities and micro-bioretention planter boxes.

**Policy 4:**

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

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

**Policy 5:**

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

Development of this site is subject to TCC requirements, which will be reviewed with the detailed site plan. The presence of woodland and tree canopy, particularly over asphalt and other developed surfaces, are proven elements to lessen climate impacts of development and the associated heat island effect, which are known contributors to climate change. The Landscape Manual also provides requirements for parking lot plantings, which will be applied at the time of detailed site plan. Both the TCC and Landscape Manual requirements will address and promote climate friendly development patterns. The submitted traffic impact study, dated December 15, 2025, shows transportation adequacy will be met and no transportation demand management projects and programs are proposed with this proposed development.

**Policy 6:**

- **Encourage the use of green building techniques that reduce resource and energy consumption.**

In accordance with this master plan policy, development applications for the subject property that will 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 is encouraged to be implemented to the greatest extent possible. Green building standards will be reviewed with future applications.

**Policy 7:**

- **Ensure that excessive noise-producing uses are not located near uses that are particular sensitive to noise intrusion.**

The submitted conceptual site plan illustrates that the commercial portion of the development is located in the front of the site, fronting MD 228, and the residential portion to be located in the rear of the site. This placement will help reduce noise intrusion for the residential development. Further noise evaluation will be addressed with subsequent applications, to ensure noise mitigation through building placement and/or materials addresses any mitigation necessary to meet County standards.

5. **State, based on new administrative findings, whether TCP1-052-97-03 proposes to remove priority retention areas, like contiguous forest, and if so, provide written findings and justification for such removal or clearing as required in NR § 5-1607(c)(3)(i), or whether TCP1-052-97-03 is exempt from the procedural requirements set forth in the current version of the State Forest Conservation Act.**

The TCP1-052-97-03 is exempt from the procedural requirements set forth in the current version of the State Forest Conservation Act; the requirements of NR Section 5-1607(c)(3)(i) are not applicable as the legislation takes effect July 1, 2026, in accordance with House Bill 1511-2024. This application is subject to the grandfathering provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the property had a TCP that was accepted for review on or before June 30, 2024. The property must conform to the environmental regulations of the 2010 Woodland Conservation Ordinance and the 2018 ETM. The property is also subject to the environmental regulations in prior Subtitles 24 and 27 because there are previously approved PPS (4-97091, 4001063, 4-01064, and 4-01065) and Detailed Site Plans (DSP-01036, DSP-04063, DSP-04063-01, and DSP-04063-04).

6. **Under PGCC § 27-546(d)(4), the Board shall find that: “[t]he proposed development is *compatible* with existing and *proposed* development in the *vicinity* (Emphasis added). The Board found as follows:**

**The approved development is compatible with the existing and planned development within the area, specifically, residential houses on the Signature Club property, which are being constructed, and residential houses approved with the Addition to Signature Club development located across Manning Road East. The multifamily dwelling units and commercial/retail spaces within the subject development will offer additional housing options and opportunities for existing and future residents to patronize locally. Resolution No. 2025-057 at 14. (Emphasis added).**

*In Hayfields, Inc. v. Valleys Planning Council*, 122 Md. App. 616, 649, 716 A.2d 311, 327 (1998), the appellate court explained that “vicinity” is “the area or region near or about a place; surrounding district; neighborhood,” which makes it clear that vicinity means off-site.

**In *Wahler v. Montgomery Cty. Council*, 249 Md. 62, 69, 238 A.2d 266 (1968), the appellate court explained that a particular land use may “effect some change” and still be “compatible with the residential character of the neighborhood.”**

**On remand, the Board shall, based on new administrative findings, state whether or not the *proposed* development is *compatible* with other *off site existing and proposed development*. Stated differently, on remand, the Board, based on additional administrative findings, is required to state whether or not the *proposed* “Signature Club East” development is *compatible* with *other existing “off-site” and other proposed “off-site” development in the vicinity*.**

The subject site is located in the northeast quadrant of the intersection of MD 228 and Manning Road East. Across this intersection sits the Manokeek Shopping Center. Properties adjoining the subject site or in the 0.5-mile vicinity are developed with townhouses (e.g. Addition to Signature Club at Maning Village across Manning Road East), single-family detached homes, or remain vacant. Within the larger vicinity, the Accokeek area is primarily comprised of single-family detached homes and includes commercial development along major roadways such as MD 210. There are a few townhouses developed within the overall Preserve at Piscataway development, which are located south of Flora Park Road at its intersection with MD 223 (Piscataway Road) and on the west side of Danville Road.

Section 27-542 of the prior Zoning Ordinance outlines the purposes of the M-X-T Zone, specially promoting compact, walkable, mixed-use communities near transportation hubs and general plan centers. The multifamily dwelling units and commercial/retail spaces within the subject development comply with these purposes. The proposed multifamily units and off-site single-family detached homes and townhouse units are all residential uses which offer a mix of housing types to support diverse household needs. The location of multifamily residential units proposed act as a transition between higher-density areas (e.g., the Manokeek Shopping Center) and lower-density neighborhood consisting of single-family detached homes and townhouse units.

Section 27-102 of the prior Zoning Ordinance outlines the purposes of zoning. It does not require identical types of development to be located adjacent to each other for compatibility. Doing so would result in a uniform, Euclidean-style zoning pattern across the County, which the Ordinance seeks to avoid. Instead, the Zoning Ordinance addresses compatibility through form and design standards (e.g. height, setbacks, landscaping, and architectural design) to address abutting uses that are not exactly the same.

Section 27-544(b) of the prior Zoning Ordinance notes, “Except as otherwise specified in this Division, where an approved Conceptual Site Plan imposes certain regulations related to the location, density, coverage, and height of improvements that are intended to implement recommendations for mixed-use development within a comprehensive master plan or general plan, such standards shall provide guidance for the development regulations to be incorporated into the Detailed Site Plan.” The submitted CSP complies with the purpose of CSPs, outlined in Section 27-272 of the prior Zoning Ordinance, and shows the relationships among proposed uses on the subject site, and between the uses on the subject site and adjacent uses, and illustrates approximate locations of the proposed multifamily buildings and three commercial pad sites. The submitted plan indicates that the nearest point of the proposed multifamily building will be set back more than 40 feet from the property line. Regarding building height, Section 27-548(i) of the prior Zoning Ordinance

states, "The maximum height of multifamily buildings shall be one hundred and ten (110) feet. This height restriction shall not apply within any Transit District Overlay Zone, designated General Plan Metropolitan or Regional Centers, or a Mixed-Use Planned Community." As noted on the submitted CSP, the proposed eight multifamily buildings will be three to five stories with a maximum height of 65 feet. The townhouses developed across Maning Road East are three stories with an approximate height of 36 feet. Based on images in PGAtlas, the immediately adjacent single-family detached homes, which are located to the north and east of the subject site, appear to be mostly one-story, ranging from 12 to 18 feet high. The submitted CSP places the tallest residential building at the center of the site. Gradually stepping down building heights toward adjacent properties to minimize the perceived bulk and improve compatibility.

Strategic placement of trees, shrubs, and green spaces will also soften the transition between building types. Section 27-548(d) of the prior Zoning Ordinance states, "Landscaping, screening, and buffering of development in the M-X-T Zone shall be provided pursuant to the provisions of the Landscape Manual. Additional buffering and screening may be required to satisfy the purposes of the M-X-T Zone and to protect the character of the M-X-T Zone from adjoining or interior incompatible land use." Specifically, Section 4.7, Buffering Incompatible Uses, of the 2010 *Prince George's County Landscape Manual*, establishes standards to create a transition between moderately incompatible uses and to form a visual and physical separation between uses of a different scale, character, and/or intensity of development. A Type B Bufferyard will be required between the subject site and the adjoining properties developed with single-family detached homes. This bufferyard must include a minimum 20-foot-wide landscaped buffer and at least 80 plant units per 100 linear feet of the property line within that area. Condition 6 of Zoning Map Amendment A-9960-C, approved by the District Council on January 9, 2026 (Zoning Ordinance 2-2006), requires the bufferyard required between land uses in the M-X-T Zone and uses on adjoining R-R zoned land to be double. These bufferyard requirements are illustrated on the submitted landscape plan as being met.

With the above analysis and additional information, staff find that the proposed development is compatible with other off-site existing and proposed development in the vicinity.

7. **Pursuant to PGCC § 27-546(d), in addition to the findings required for the Board to approve the CSP, the Board is also required to make nine (9) specific findings. Specifically, § 27-546(d)(9) requires the Board to find as follows:**

**On a Conceptual Site Plan for property placed in the M-X-T Zone by a Sectional Map Amendment, *transportation facilities* that are existing; that are under construction; or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, or the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in an approved public facilities financing and implementation program, *will be adequate to carry anticipated traffic for the proposed development*. The finding by the Council of *adequate transportation facilities* at the time of Conceptual Site Plan approval shall not prevent the**

Planning Board from later amending this finding during its review of subdivision plats. (Emphasis added).

Under the County Code for Urban and Rural Land Development, *transportation facilities* are defined as “[a]nything that is built, installed, or established to provide a means of transport from one place to another.” PGCC Subtitle 5B, Division 2, Subdivision 1 General Provisions, § 5B-108(a)(101).

Concerning *adequacy of transportation facilities*, the Board found, in relevant part, as follows:

A full traffic impact study, dated May 23, 2025, was submitted with the subject CSP application. The traffic study was referred to the Prince George's County Department of Public Works and Transportation and the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), as well as the Maryland State Highway Administration.

The traffic impact study identified two background developments whose impact would affect study intersections. In addition, an annual growth of one percent over six years was applied to through movements along MD 210 and MD 228. In addition, the one percent growth was applied to all movements at MD 210 and MD 228. The analysis revealed the following results:

As shown in the analysis, the intersection of MD 210 and MD 373 does not meet the level of service requirements under *any* condition. The applicant notes in the study that this intersection *fails* under background conditions due to the addition of vested trips from PPS 4-01064, which previously governed the site. However, the intersection of MD 210 and MD 373 also fails under existing conditions, before background is applied.

Further, the applicant *removed* the trips associated with PPS 4-01067 from the total conditions analysis to represent the new impact of the trips associated with CSP-23002 on the site. The traffic impact study demonstrates that the intersection of MD 210 and MD 373 *will fail with the addition of trips associated with the subject application. The traffic impact study does not provide a mitigation strategy at this time.* At the time of PPS, the applicant shall submit a new traffic study for the planned development and address all transportation adequacy standards, including any mitigation that may be required, to ensure that transportation will be adequate to carry anticipated traffic for the planned development. Resolution No. 2025-057 at 15-19. (Emphasis added).

Based on the record, the Board found that the CSP application will not be adequate to carry anticipated traffic for the proposed development as required under PGCC § 27-546(d)(9). Therefore, the record lacks substantial evidence to approve the CSP application based on a finding of adequacy of transportation facilities. Consequently, under PGCC § 27-546(d)(9), the District Council is unable to make the requisite finding of adequate transportation facilities to approve the CSP application. Moreover, under PGCC § 27-546(d)(9), the requisite findings of adequate transportation facilities cannot be deferred because, under PGCC § 27-546(d)(9),

such a finding is a prerequisite, or condition precedent, to approve the CSP application. Statutory interpretation neither adds nor deletes words or engages in forced or subtle interpretation in an attempt to extend or limit the statute's the extent that the record could have supported a finding of adequate transportation facilities, and it cannot, the Board would still be authorized to amend a finding of adequacy of transportation facilities during its review of subdivision plats. PGCC §27-546(d)(9). But here, the record does not support a finding of adequacy of transportation facilities.

**On remand, the Property Owner shall submit a new traffic study for the planned development and address all transportation adequacy standards, including any mitigation that may be required, to ensure that transportation will be adequate to carry anticipated traffic for the planned development. Resolution No. 2025-057 at 19.**

Condition 5 of the resolution imposed the requirements necessary to address Section 27-546(d)(9) of the prior Zoning Ordinance concerning the intersection at MD 210 and MD 373. A revised traffic impact study, dated December 15, 2025, was submitted by the applicant to include the analysis of Condition 5 of PGCPB Resolution No. 2025-057.

The subject property is located within Transportation Service Area (TSA) 2, as defined in the *Plan Prince George's 2035 Approved General Plan*. As such, the subject property is evaluated according to the following standards:

Links and Signalized Intersections: Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

Unsignalized Intersections: For two-way stop-controlled intersections a three-part process is employed: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed.

For all-way stop-controlled intersections a two-part process is employed: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed.

Trip Generation: The table below summarizes trip generation for each peak period that will be used in reviewing site traffic generated impacts and developing a trip cap for the site.

Trip Generation Summary: CSP-23002 Signature Club East								
Land Use	Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Garden/Mid-Rise Apartments (PGC rates)	300	units	31	125	156	117	63	180
Fast Food Restaurant w/ Drive Thru (ITE-934)	12,600	Square feet	285	276	561	216	201	417
<i>Primary Trips w/ Internal Capture for Pad Sites from Apartments: 10%</i>			(29)	(28)	(57)	(22)	(20)	(42)
<i>Pass-by 50% AM and 55% PM</i>			(129)	(126)	(252)	(99)	(90)	(189)
<b>Trip Cap Recommendation</b>			<b>408</b>			<b>366</b>		

The traffic generated by the proposed application will impact on the following intersections in the transportation system:

1. MD 210 and MD 373 (signalized)
2. MD 373 and Dusty Lane (unsignalized)
3. MD 373 and Menk Road (unsignalized)
4. MD 210 and MD 228 (signalized)
5. MD 228 and Manning Road (signalized)
6. Manning Road and Caribbean Way (unsignalized)
7. Manning Road and Site Access (right-in/right-out) (unsignalized)
8. Manning Road and Site Access (unsignalized)

#### **Existing Traffic**

The critical intersections identified above, when analyzed with existing traffic and existing lane configurations, operate as follows:

EXISTING TRAFFIC CONDITIONS						
Intersection	Critical Lane Volume (AM & PM)		LOS/Pass/Fail (AM & PM)		ADEQUACY MET	
1. MD 210 & MD 373	(signalized)	1163	1481	C	E	No
2. MD 373 & Dusty Lane	(unsignalized)	11.9 sec	17.1 sec	Pass	Pass	Yes
3. MD 373 & Menk Road	(unsignalized)	10.3 sec	13.5 sec	Pass	Pass	Yes
4. MD 210 & MD 228	(signalized)	880	1286	A	C	Yes
5. MD 228 & Manning Road	(signalized)	1031	1227	B	C	Yes
6. Manning Road & Caribbean Way v/c ratio (SIDRA)	(unsignalized)	0.060	0.055	A	A	Yes
7. Manning Road & Site Access (right-in/right-out)	(unsignalized)	-	-	-	-	-
8. Manning Road & Site Access	(unsignalized)	-	-	-	-	-

In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, a delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure and should be interpreted as severe inadequacy.

#### **Background Traffic**

The traffic impact study (TIS) identified two background developments whose impact would affect study intersections. In addition, an annual growth of 1 percent over six years was applied to the existing peak hour volumes. The analysis revealed the following results:

BACKGROUND TRAFFIC CONDITIONS						
Intersection		Critical Lane Volume (AM & PM)		LOS/Pass/ Fail (AM & PM)		ADEQUACY MET
1. MD 210 & MD 373	(signalized)	1242	1608	C	F	No
2. MD 373 & Dusty Lane	(unsignalized)	12.1 sec	19.3 sec	Pass	Pass	Yes
3. MD 373 & Menk Road	(unsignalized)	10.4 sec	14.7 sec	Pass	Pass	Yes
4. MD 210 & MD 228	(signalized)	969	1440	A	D	Yes
5. MD 228 & Manning Road	(signalized)	1164	1332	C	D	Yes
6. Manning Road & Caribbean Way v/c ratio (SIDRA)	(unsignalized)	0.140	0.284	A	B	Yes
7. Manning Road & Site Access (right-in/right-out)	(unsignalized)	-	-	-	-	-
8. Manning Road & Site Access	(unsignalized)	-	-	-	-	-

In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, a delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure and should be interpreted as severe inadequacy.

### Total Traffic

The study intersections, when analyzed with total developed future traffic, operate as shown below.

TOTAL TRAFFIC CONDITIONS						
Intersection		Critical Lane Volume (AM & PM)		LOS/Pass/ Fail (AM & PM)		ADEQUACY MET
1. MD 210 & MD 373 <i>With improvements along MD 373</i>	(signalized)	1258 1257	1592 1521	C C	E E	Mitigated
2. MD 373 & Dusty Lane	(unsignalized)	12.3 sec	17.9 sec	Pass	Pass	Yes
3. MD 373 & Menk Road	(unsignalized)	10.7 sec	14.5 sec	Pass	Pass	Yes
4. MD 210 & MD 228	(signalized)	964	1420	A	D	Yes
5. MD 228 & Manning Road	(signalized)	1172	1315	C	D	Yes
6. Manning Road & Caribbean Way v/c ratio (SIDRA)	(unsignalized)	0.254	0.209	A	A	Yes
7. Manning Road & Site Access (right-in/right-out)	(unsignalized)	9.5 sec	10.1	Pass	Pass	Yes
8. Manning Road & Site Access	(unsignalized)	9.4 sec	9.4 sec	Pass	Pass	Yes

In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, a delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure and should be interpreted as severe inadequacy.

The analysis shows that all critical intersections will operate at acceptable levels except the intersection of MD 210 and MD 373, and indicates failing levels in all conditions.

The applicant provided analysis for the following improvements at MD 210 and MD 373, in accordance with Condition 5 of PGCPB Resolution No. 2025-057:

- a. Modify the traffic signal to be a split-phased traffic signal for the MD 373 (Livingston Road) approaches.
- b. Modify the lane use on the east and west legs of MD 373 (Livingston Road), as follows. This can be accomplished by restriping and adding lane use signs.
  - (1) Eastbound: One left, one shared left/through, and one shared through/right.
  - (2) Westbound: One left-turn lane, one shared left/through, and one right-turn lane.

While the proposed improvements do not meet the LOS threshold, the mitigation results in meeting the requirement of mitigating a minimum of 150 percent of the development's impact per the 2022 Transportation Review Guidelines (TRG), and therefore, meets the adequacy requirement.

**8. When granting a variance, the Board and the District Council are subject to the following:**

**Law on Variance**

A variance permits a use [that] is prohibited and presumed to be in conflict with [an] ordinance." *North v. St. Mary's Cnty.*, 99 Md. App. 502, 510, 638 A.2d 1175 (1994). The burden rests on the applicant to overcome the presumption that the proposed use is in conflict with the ordinance. *Id.* Courts have recognized a two-part test to determine whether a variance should be granted in a particular case. *Cromwell v. Ward*, 102 Md. App. 691, 694-95, 651 A.2d 424 (1995). The first requirement, uniqueness, looks at whether: the property whereon structures are to be placed (or uses conducted) is in and of itself unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. *Id.* at 694. If the applicant successfully proves that the property in question is unique, then the reviewing body moves to the second requirement practical difficulty or unnecessary hardship and examines: whether practical difficulty and/or [unnecessary] hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists. *Id.* at 695. This *two-step process* must be repeated for each variance request.

**Law of Uniqueness**

To receive a zoning variance, a property must be unique. Maryland cases have used the terms "unique," "unusual," and "peculiar" to describe this step in the variance analysis. In *Cromwell* these words are used more or less interchangeably to mean "unusual." *Cromwell* 102 Md. App. at 703. The uniqueness analysis examines the unusual characteristics of a specific property in relation to the other properties in the area, and the nexus between those unusual characteristics and the application of the aspect of the zoning law from which relief is sought. *Id.* at 719 ("[V]ariances should only be granted when the uniqueness or peculiarity of a subject property is not shared by the neighboring property and where the uniqueness of that property results in an extraordinary impact upon it by the operation of the statute."). That is, the *unique* aspect of the property must relate to -- have a *nexus* with -- the aspect of

the zoning law from which a variance is sought. *Id.* Without the nexus requirement, a motivated sophist could always find similarities or differences between any two properties so as to defeat or support a uniqueness finding. Every property is similar to every other property in some respects (for example, “there are some living things on this property”). And every property can be distinguished from every other property in some other respect (for example, “this property contains exactly x number of trees and y number of woodrats”). Rather than semantic tricks, the proper question is whether the property is unique in the way that this particular aspect of the zoning code applies to it.

*Uniqueness* must be related to the *land* ... The attribute must be related to the application of the ordinance from which relief is sought. Thus, a minimum width requirement for a parcel makes little sense for a pie shaped lot [;] likewise for a setback regulation that puts a house into an arroyo or ravine. It would make no sense to consider the narrowness of a pie-shaped lot as a unique attribute in considering whether to waive, for example, a height or density restriction. Maryland cases recognize this requirement. *Trinity Assembly of God of Balt. City, Inc. v. People's Counsel for Balt. County*, 407 Md. 53, 82, 962 A.2d 404 (2008) citing *Cromwell*, 102 Md. App. at 721 (“[A] property peculiar characteristic or unusual circumstances ... must exist in conjunction with the ordinance s ... impact on the specific property because of the property s uniqueness.”). The uniqueness, then, must have a nexus with the aspect of the zoning law from which a variance is sought.

#### Practical Difficulty or Unwarranted Hardship

The second step of the variance test examines whether the disproportionate effect of the ordinance, caused by the uniqueness of the property, creates practical difficulty for or unnecessary hardship on the owner of the property. *Cromwell*, 102 Md. App. at 694-95; see also LU § 4-206(b)(2) (“The modifications in a variance ... (2) may only be allowed where ... a literal enforcement of the zoning law would result in unnecessary hardship or practical difficulty as specified in the zoning law.”) These are two different standards: (1) a more lenient “practical difficulty” test; or (2) a more strict “unnecessary hardship” test.

“The determination of which standard to apply, ‘practical difficulties’ or ‘[unnecessary] hardship,’ rests on which of two types of variances is being requested: ‘area variances or use variances.’” *Montgomery County v. Rotwein*, 169 Md. App. 716, 728, 906 A.2d 959 (2006). “[T]he less stringent ‘practical difficulties’ standard applies to area variances, while the ‘[unnecessary] hardship’ standard applies to use variances.” *Id.* at 729 (explaining that area variances do not change the character of the neighborhood as greatly as do use variances); *Zengerle v. Board of County Comm'rs*, 262 Md. 1, 21, 276 A.2d 646 (1971). Area variances, “are variances from area, height, density, setback, or sideline restrictions, such as a variance from the distance required between buildings.” *Rotwein*, 169 Md. App. at 728. Use variances, by contrast, permit a use other than that permitted in the particular district by the ordinance, such as a variance for an office or commercial use in a zone restricted to residential uses. *Id.* (cleaned up).

On remand, the Board shall apply the standard of review for a variance set forth above and determine, based on new administrative findings, whether the Property

**Owner has met its burden for the granting of the requested variance from Division 2 of Subtitle 25, Woodland and Wildlife Habitat Conservation Ordinance, to remove four (4) specimen trees. PGCC §§ 25-122(b)(1)(G), 25-119(d).**

No further testimony is required because the Order of Remand directs the Planning Board to apply the wrong standard of law to the applicant's request for a variance from the Woodland and Wildlife Habitat Conservation Ordinance and to make new administrative findings based on this erroneous standard of law. The Planning Board, therefore, cannot comply with the prescriptions of the Order of Remand for Paragraph 8 for the reasons provided below.

The Order of Remand provides a recitation of Maryland case law on the "uniqueness" and "practical difficulty" criteria for zoning variances. It then instructs the Planning Board to reanalyze the applicant's requested variances from the 2010 Woodland Conservation Ordinance ("WCO") under zoning case law. Following this instruction would constitute a legal error by the Planning Board.

The WCO specifically states that "[v]ariances granted under this Subtitle are not considered zoning variances." 2010 WCO Section 25-119(d)(4). Furthermore, Maryland courts have explained that, given the differences between the criteria for zoning and WCO variances, case law regarding zoning variances is inapplicable to WCO variances. *Bhargava v. Prince George's County Planning Board*, 265 Md. App. 172, 197-98 (2025) cert. denied, 490 Md. 291, 334 A.3d 833 (2025).

The Maryland Appellate Court has specifically stated that the "uniqueness" criterion for a zoning variance is "distinct" from the WCO variance finding, requiring that "[s]pecial conditions peculiar to the property have caused the unwarranted hardship" (the "unwarranted hardship finding") 2010 WCO Section 25-119(d)(1)(A). *Bhargava*, 265 Md. App. at 197. Specifically, the WCO variance "unwarranted hardship" finding focuses "on the special features of the site, and not its uniqueness." *Id.*

Another Maryland Appellate Court case provides further explanation of this finding as follows:

The applicant has the burden of demonstrating that, without a variance, the applicant would be denied a use of the property that is both significant and reasonable. In addition, the applicant has the burden of showing that such a use cannot be accomplished elsewhere on the property without a variance.

*West Montgomery County Citizen's Association, et al. v. Montgomery County Planning Board, et. al.*, 248 Md. App. 314, 347 (2020) (quoting *Assateague Coastal Trust, Inc. v. Schwalbach*, 448 Md. 112, 139 (2016)). Consistently, this decision also did not rely on any zoning variance cases.

The Planning Board made its "unwarranted hardship" finding in line with the applicable case law discussed above. Specifically, the Planning Board's resolution found that the proposed mixed-use development was a significant and reasonable use that could not be achieved elsewhere on the property without the WCO variances due to special conditions. (See pages 33-34 of PGCPB Resolution No. 2025-057.) First, the Planning Board found that the proposed mixed-use development is significant and reasonable, as the property is in a

“mixed-use zone area.” Second, the Planning Board found that, even if the applicant moved the proposed building and associated parking and infrastructure, WCO variances would still be required for the proposed mixed-used development. Specifically, because the property is relatively flat, the applicant must grade it to provide proper stormwater drainage. Such grading would impact the specimen trees, thus necessitating WCO variances. Therefore, the Planning Board found that denial of the WCO variance would result in an unwarranted hardship.

Accordingly, there is substantial evidence in the record to support the Planning Board’s findings and conclusions granting the variance and for the District Council to determine if the Board’s decision is based on an erroneous conclusion of law. The findings are also precise, clear, well-reasoned, and articulated, such that there are no grounds to find its decision to be arbitrary or subject to remand to correct any deficiency.

9. **In the M-X-T Zone, a CSP shall be approved for all uses and improvements, in accordance with PART 3, Division 9, of the PZO. PGCC § 27-546(a). Among other things, a CSP shall include “[a] stormwater concept plan approved or submitted for review pursuant to Section 4-322 of [the County] Code.” PGCC § 27-273(e)(14). And a specific purpose of a CSP is to ... “illustrate storm water management concepts to be employed in any *final* design for the site.” PGCC § 27-272(c)(1)(C).**

**On remand, the Property Owner shall submit a stormwater concept plan in accordance with the above requirements.**

In accordance with Section 27-273(e)(14) of the prior Zoning Ordinance, the CSP shall be consistent with a SWM concept plan approved or submitted for review pursuant to Section 4-322 of the County Code. The applicant submitted the SWM concept plan to Dpie for review on February 7, 2024.

The unapproved SWM Concept Plan, 35682-2023-SDC, was submitted with this application which was accepted on February 26, 2024. The SWM concept plan shows the use of ESD elements to address water quality requirements. The SWM concept plan proposes using 31 micro-bioretention facilities and 21 micro-bioretention planter boxes. The CSP layout is consistent with the proposed SWM concept design. Conformance with the provisions of the County Code and state regulations with regard to SWM will require final approval by Dpie prior to issuance of permits.

## **RECOMMENDATION**

Based on the forgoing discussion, the Urban Design Section recommends that the Planning Board adopt the findings of this memorandum to address the nine specific issues subject to this Order of Remand and issue an amendment to PGCPB Resolution No. 2025-057, with one new condition (Condition 1.e) as follows:

1. Prior to certificate approval of the conceptual site plan, the following revisions shall be made, or information shall be provided:

- e. Provide documentation showing that 7.81 acres of off-site mitigation has been secured in an off-site bank, in accordance with Section 25-122(a)(3) of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance.