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

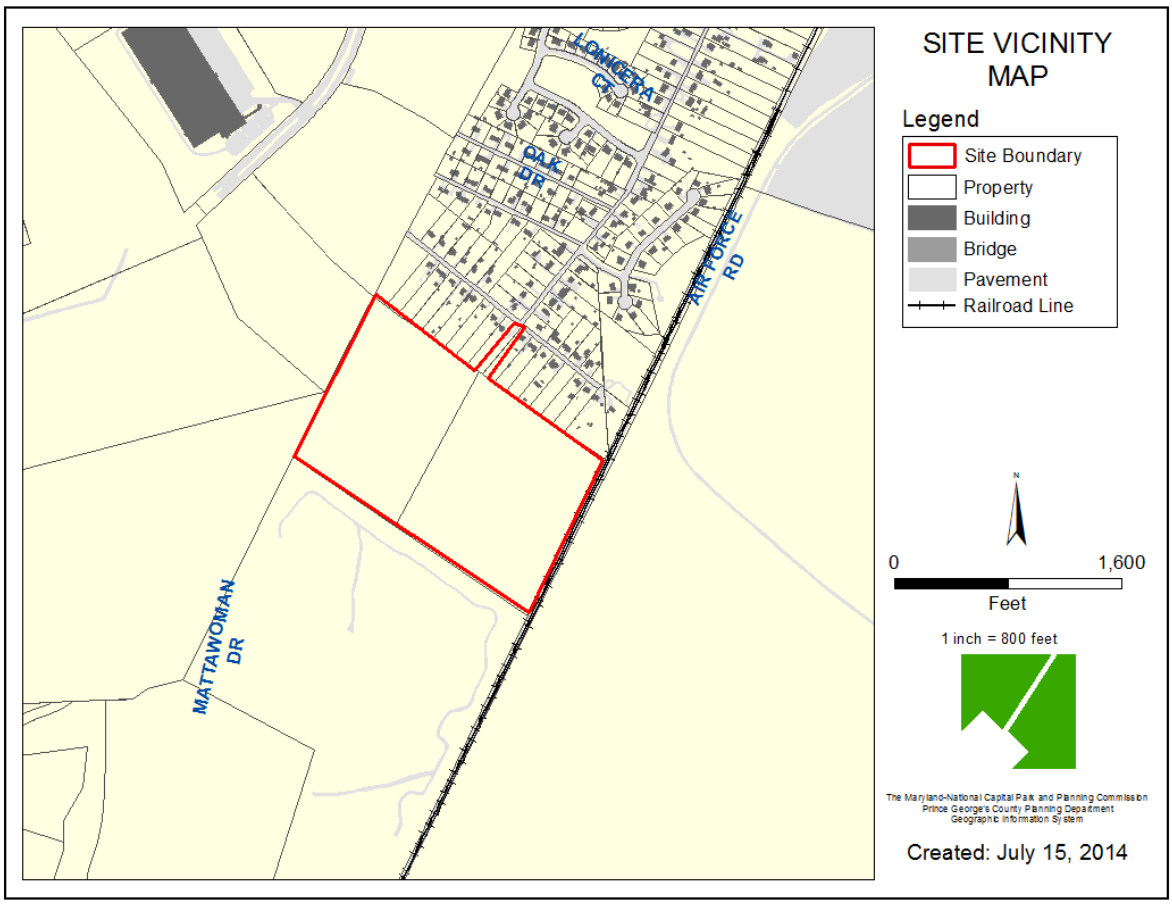
Note: *Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.*

Conceptual Site Plan CSP-12002
Detailed Site Plan DSP-12033

Application	General Data	
Project Name: Mattawoman-Brandywine Commerce Center North	Planning Board Hearing Date:	07/31/14
	Staff Report Date:	07/17/14
Location: Southwest of the intersection of Timothy Road and Brandywine Heights Road, and west of Consolidated Rail Corporation railroad.	Date Accepted:	05/21/13
	Planning Board Action Limit:	Waived
	Plan Acreage:	56.91
	Zone:	I-3/R-R
Applicant/Address: Mattawoman Development, LLC c/o Dan Lynch 6411 Ivy Lane Ste. 200 Greenbelt MD 20770	Dwelling Units:	N/A
	Gross Floor Area:	4,750 sq. ft.
	Planning Area:	85A
	Council District:	09
	Election District	11
	Municipality:	N/A
	200-Scale Base Map:	219SE08

Purpose of Application	Notice Dates	
Installation of Solar Panels (Public Utility Use or Structure) Variances from Section 27-471(h)(l) due to lack of frontage on and direct vehicular access to a street having a right-of-way width of at least 70 feet; Section 27-474(d) for frontage width of less than 150 feet; and from Section 25-119(d) for the removal of two specimen trees.	Informational Mailings:	08/13/12
	Acceptance Mailings:	05/10/13
	Sign Posting Deadline:	07/01/14

Staff Recommendation			Staff Reviewer: Meika Fields Phone Number: 301-780-2458 E-mail: Meika.Fields@ppd.mncppc.org
APPROVAL	**APPROVAL WITH CONDITIONS**	**DISAPPROVAL**	**DISCUSSION**
	X		


SITE VICINITY MAP
Legend
Site Boundary
Property
Building
Bridge
Pavement
Railroad Line
LONGLEAF CT
OAK DR
AIR FORCE RD
MATTAWOMAN DR
N
0
1,600
Feet
1 inch = 800 feet
The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Geographic Information System
Created: July 15, 2014

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Conceptual Site Plan CSP-12002
Detailed Site Plan DSP-12033
Type 2 Tree Conservation Plan TCP2-011-13
Mattawoman-Brandywine Commerce Center North

The Urban Design staff has completed the review of the subject applications and appropriate referrals. The following evaluation and findings lead to a recommendation of APPROVAL with conditions as described in the Recommendation section of this report.

EVALUATION

The conceptual site plan (CSP) and detailed site plan (DSP) were reviewed and evaluated for conformance with the following criteria:

a. The requirements of the Zoning Ordinance in the Planned Industrial/Employment Park (I-3) Zone.

b. The requirements of the 2010 *Prince George's County Landscape Manual.*

c. The requirements of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance and the Tree Canopy Coverage Ordinance.

d. Referral comments.

FINDINGS

Based upon the analysis of the subject conceptual site plan (CSP) and detailed site plan (DSP), the Urban Design Section recommends the following findings:

1. **Request:** The subject application is for approval a CSP and DSP for a solar powered electric generating facility.

2. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	I-3/R-R	I-3/R-R
Use(s)	Vacant	Public Utility Use or Structure
Acreage	56.91	56.91
Square Footage/GFA	0	4,750

Parking Requirements

	REQUIRED	PROPOSED
Maintenance Building (1 space per 500 sq. ft.)	10	10
of which Handicap Spaces	1	(1 Van-Accessible)
Total Loading space	0	0

3. **Location:** The 56.91-acre property is located southwest of the intersection of Timothy Road and Brandywine Heights Road and west of a Consolidated Road Corporation railroad in Brandywine, Maryland. The site is also located in Planning Area 85A, Council District 9.

4. **Surrounding Uses:** The subject property is bounded to the north by single-family homes in the Rural-Residential (R-R) Zone; to the east by a railroad line beyond which is Joint Base Andrews Naval Air Facility Washington Communications Facility; to the south by a recycling plant and undeveloped properties in the Heavy Industrial (I-2) Zone; and to the west by undeveloped properties in the Residential-Medium Development (R-M) Zone with an approved comprehensive design plan known as the Villages of Timothy Branch.

5. **Previous Approvals:** The subject property was rezoned from the R-R Zone to the Planned Industrial/Employment Park (I-3) Zone pursuant to the April 1978 Sectional Map Amendment for the Brandywine, Mattawoman, Pleasant Springs, and Cedarville Communities of Subregion V, Planning Areas 85A and 85B. The 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* retained the subject property in the I-3 Zone.

6. **Design Features:** The applicant is proposing to develop the subject property with a solar powered electric generating facility capable of generating 4.4 megawatts. Approximately 1,600 proposed solar panels and two inverter areas are proposed on approximately 26.43 acres of the 56.91-acre site. Each solar panel assembly is approximately 13 feet in width by 36.5 feet in length, and upon installation will have a height of up to 7.6 feet.

   The applicant proposes to clear 41.02 acres of existing woodlands, and fill the site, which will elevate the level of the ground surface an additional two to 25 feet. Staff understands that much of the fill for the site will come from the property owner's (Soil Safe) adjacent properties to the south, which operates as a soil recycling business. The site will be graded and grass will be planted. The solar powered electric generating facility, or solar field, will slope down to the southeast, away from the residentially-zoned properties to the north and west. A variable width, 60 to 250-foot-wide buffer of existing trees is proposed to be retained along the northern and western property line, which will offer screening between adjacent residential uses and the

subject use. An eight-foot-tall chain-link fence with barbed wire on top is proposed around the perimeter of the solar field for security purposes.

The applicant is also proposing to construct a 4,750-square-foot maintenance building in the southeast corner of the site. This building will be served by a ten-space surface parking lot.

The subject site has legal access to Timothy Road to the north via a 30-foot right-of-way for ingress and egress; however the applicant proposes to access the use from the south. An access easement has been provided which illustrates this connection to Mattawoman Drive.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements of the Planned Industrial/Employment Park (I-3) Zone, Rural-Residential (R-R) Zone, the site plan design guidelines, and additional requirements of the Zoning Ordinance. Approval of a CSP and DSP is required for all uses and improvements in the I-3 Zone, in accordance with Part 3, Division 9, of the Zoning Ordinance. The following discussion is provided:

   a. The application is subject to the requirements of Section 27-473(b) of the Zoning Ordinance, which governs uses in industrial zones. The subject application proposes a public utility use or structure, including electric power facilities or equipment, which is permitted in the I-3 and R-R Zone.

   b. The subject property has 30 feet of frontage on Timothy Road. Section 27-471(h)(l) of the Zoning Ordinance requires that property located in the l-3 Zone have direct vehicular access to a street having a right-of-way width of at least 70 feet. The subject property has access to a street with a right-of-way width of 30 feet. In addition, Section 27-474(d) requires 150 feet of frontage for property located in the I-3 Zone. Therefore, the applicant is requesting a variance of 40 feet from Section 27-471(h)(1) and a variance of 120 feet from Section 27-474(d) as part of the conceptual site plan.

   c. The I-3 Zone contains the following additional regulations:

      Section 27-471(f). Regulations.

      (1) Additional regulations concerning the location, size, and other provisions for all buildings and structures in the I-3 Zone are as provided for in Divisions 1 and 5 of this Part, the Regulations Tables (Division 4 of this Part), General (Part 2), Off-Street Parking and Loading (Part 11), Signs (Part 12), and the Landscape Manual.

      Comment: Additional regulations referenced above have been reviewed as applicable and are discussed in this report.

      (2) Not more than twenty-five (25%) of any parking lot and no loading space shall be located in the yard to which the building's main entrance is oriented, except that the Planning Board may approve up to an additional fifteen percent (15%) in its discretion if increased parking better serves the efficiency of the particular use; improves views from major arteries or

interstate highways; and makes better use of existing topography or complements the architectural design of the building.

Comment: The subject application includes a 4,750-square-foot maintenance building with roll up garage door entrances only. This standard does not appear to be applicable to the proposed use.

(3) No loading docks shall be permitted on any side of a building facing a street except where the lot is bounded by three (3) or more streets.

Comment: No loading docks are proposed on the site.

Section 27-471(h). Required access.

(1) Each Planned Industrial/Employment Park (including each property in separate ownership) shall have frontage on, and direct vehicular access to, a street having a right-of-way width of at least seventy (70) feet.

Comment: The subject property has 30 feet of frontage and legal access to Timothy Road, which is a 30-foot-wide right-of-way. The applicant requests a variance from this section as part of the subject conceptual site plan. For additional discussion see Finding 8.

Section 27-471(i). Minimum area for the development.

(i) Minimum area for the development.

(1) The minimum area for the development of any Planned Industrial/Employment Park shall be twenty-five (25) gross acres.

(2) If the area is less than twenty-five (25) acres but not less than fifteen (15) acres, the property may be classified in the I-3 Zone when the property adjoins property in the C-O Zone, provided that the area of the combined properties is at least twenty-five (25) gross acres.

(3) If the area is less than twenty-five (25) acres, the property may be classified in the I-3 Zone when the property adjoins property in the I-3 or E-I-A Zone, provided that the area of the combined properties is at least twenty-five (25) gross acres.

(4) If the area is less than twenty-five (25) acres, and the land was classified in the I-3 Zone prior to October 31, 1977, or upon approval of a Sectional Map Amendment, it may be developed in accordance with this Part, provided the owner of record does not own abutting undeveloped land in the I-3, E-I-A, or C-O Zone that could be used to comply with the provisions of paragraph (1), (2), or (3), above.

Comment: The subject site is 56.91 acres, which meets the requirements of the above provision.

d. Section 27-474 (d), Regulations, Table III, Lot Frontage requires 150 feet of frontage for a property located in the I-3 Zone. The applicant is requesting a variance of 120 feet from

Section 27-474(d) as part of the subject conceptual site plan. For additional discussion see Finding 8.

8. **Required Findings for Approval of a Variance:** The applicant has submitted variance requests from 27-471(h)(l) due to lack of frontage on and direct vehicular access to a street having a right-of-way width of at least 70 feet; and from Section 27-474(d) for frontage width of less than 150 feet. The applicant provides the following summarized justification for the variance request:

> The subject property has access to and frontage on Timothy Road, which has a right-of-way width of 30 feet. There are no other streets proposed that will provide access to the subject property. The 2013 Master Plan for Subregion 5 proposes the alignment of A-55 to the south of the subject property. However, as part of the proposed development of the solar facility, the applicant is proposing to access the subject property through the property to the south via a private easement.

Section 27-230(a) of the Zoning Ordinance outlines the findings that must be made in order to approve a variance application. The variance application satisfies the requisite findings outlined in Section 27-230(a) as follows:

> **1. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**
>
> **Applicant's Justification:**
> The applicant is proposing to develop the subject property with a solar facility. Once the facility is constructed, the operation will generate a de minimus amount of vehicular traffic. The 70 foot right-of-way requirement and 150 foot frontage requirement anticipate development of an industrial/employment park that would generate a significant amount of daily vehicular traffic. The subject property was rezoned to the I-3 Zone over 20 years ago and was to be developed as part an overall employment area in Brandywine and referenced in the 1993 Subregion V Master Plan and Sectional Map Amendment. The subject property was designated in the Subregion V Plan as being located in Employment Area C, Brandywine Mattawoman Industrial Area. The Master Plan shows that the access to Employment Area C would be via A-55 (the 80 foot wide Brandywine Spine Road) which was proposed and aligned to connect the industrial properties in the Employment Area to the regional highway network. However, that alignment does not touch the subject property. It was anticipated that the subject property would access A-55 through the Mattawoman Industrial Park via an internal road network or easement. The 2013 Subregion 5 Master Plan adjusted the alignment of A-55, but it still does not touch the subject property. Therefore, the applicant cannot comply with the requirement since there are no streets with a right-of-way width of 70 feet that are adjacent to the property.

Comment: The above statements were reviewed by the Community Planning Division and were determined to accurately represent the site history. The subject site was rezoned from the R-55 Zone to the I-3 Zone by the 1978 Sectional Map Amendment for the Brandywine, Mattawoman, Pleasant Springs, and Cedarville Communities of Subregion V, Planning Areas 85A and 85B. Staff concurs with the above statement and believes that the circumstances outlined, in which a property was zoned, I-3 but lacked access to a

public road which would permit it to be developed, constitute an extraordinary situation which justifies approval of the requested variance.

2. The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

Applicant's Justification:
As indicated above, unless the variance is approved, the applicant will not be able to develop the property with a permitted use. The only access to the property is via a 30 foot right-of-way. It has been anticipated since the approval of the 1993 Master Plan for Subregion V that the property would be accessed from the south and at no time since the rezoning has a public street with a 70 foot right-of-way been proposed in the Master Plan or in the Master Plan of Transportation. The strict application of this Subtitle would result in practical difficulties, as it is impossible to develop the subject property without relief from these sections of the Zoning Ordinance.

Comment: Without approval of the proposed variances, the subject property will not be able to be developed with permitted uses. Staff concurs with the above statement and recommends that the Planning Board adopt the statement as a finding.

3. The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

Applicant's Justification:
The 2013 Approved Master Plan and Sectional Map Amendment for Subregion 5 recommends Industrial Land Uses for the subject property and retained the property in the I-3 Zone. However, the Master Plan does not propose a future right-of-way that would service the property. Mattawoman Drive is located to the south of the subject property and it was anticipated that the subject property as well as the property located to the south would be accessed via easements to Mattawoman Drive. Granting the variance in anticipation that the property will be accessed from the south therefore conforms to the Master Plan.

Comment: Community Planning staff has reviewed the above statement and concurs that the subject proposal conforms to the land use recommendations in the master plan; therefore, approval of the variance will not impair the integrity of the *Plan Prince George's 2035 Approved General Plan* or the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment*.

9. **2010 Prince George's County Landscape Manual:** The proposal for the installation of solar panels and a 4,750-square-foot maintenance building on Parcels 6 and 7 is subject to Section 4.7, Buffering Incompatible Uses, of the 2010 *Prince George's County Landscape Manual* Landscape Manual). The subject application also includes part of Lot 21, which will not be the subject of any building or grading permit and is not subject to any requirements of the Landscape Manual at this time.

The following additional information is provided:

a. **Section 4.2—**Requirements for Landscaped Strips along Streets specifies that, for all nonresidential uses in any zone and for all parking lots, a landscaped strip shall be

provided on the property abutting all public and private streets. Parcels 6 and 7 do not have frontage on a public street, and are not subject to this section.

b. **Section 4.3**—Parking Lot Requirements does not apply because the proposed ten-space parking lot is less than 7,000 square feet.

c. **Section 4.4—**Screening Requirements require that all dumpsters, loading spaces, and mechanical areas be screened from adjoining existing residential uses, land in any residential zone, and constructed public streets. The property will be adequately screened from adjacent residential uses to the north.

d. **Section 4.7—**The site is subject to Section 4.7, Buffering Incompatible Uses. A goal of Section 4.7 is to provide a comprehensive, consistent, and flexible landscape buffering system that provides transitions between moderately incompatible uses.

Whereas a minimum 40-foot-wide landscape buffer is required between the proposed public utility use on Parcels 6 and 7 and adjacent single-family homes to the north, the application indicates a variable width 120-foot to 320-foot-wide buffer with existing trees and reforestation. Staff supports these wider landscape yards and requests that they be delineated on the landscape plan.

Along the western property line, the development abuts vacant R-M zoned property. A Section 4.7 schedule and bufferyard should also be delineated along this property line to buffer future residential uses from the subject proposal.

e. **Section 4.9**—Section 4.9, Sustainable Landscaping Requirements, requires a percentage of plants within each plant type, including shade trees, ornamental trees, evergreen trees and shrubs, to be native species or the cultivars of native species. The Section 4.9 schedule shows the retention of existing plant material only. Any new plant material will be subject to this section.

10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** This property 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 it contains more than 10,000 square feet of existing woodland. Both plans are being concurrently reviewed along with the required Type 2 tree conservation plan. Because of the nature of the application, and the proposed use on the subject property, a TCP2 has been determined to be appropriate to satisfy the woodland conservation requirements of the CSP and DSP.

a. **Type 2 Tree Conservation Plan TCP2-011-13—**The TCP2 covers two parcels with a gross and net area of 56.91 acres. The site contains 51.82 acres of upland woodlands and no100-year floodplain. The TCP2 proposes clearing 41.02 acres of the upland woodlands, and 0.14 acres of off-site clearing. The woodland conservation threshold for this property based on the I-3 zone is 15 percent of the net tract, which is equal to 8.49 acres. Based upon the proposed clearing of 41.16 acres, the total woodland conservation requirement including the ¼: 1 replacement for clearing above the threshold, and 1:1 replacement for off-site clearing is 18.96 acres.

The TCP2 proposes to meet the requirement with 10.62 acres of on-site preservation, and 8.34 acres of on-site afforestation/reforestation. This fulfills the numeric woodland

conservation requirement entirely on-site. This is consistent with priorities for woodland conservation established with the state Forest Conservation Act (FCA) and local ordinance, and with guidance provided by the 2005 *Approved Countywide Green Infrastructure Plan* for the Mattawoman Creek Special Conservation Area (SCA).

The top three priorities for woodland conservation are contained in Section 25-121(b) of the County Code and include, in the order listed: land within the designated network of the 2005 *Approved Countywide Green Infrastructure Plan*, critical habitat areas, and contiguous wooded areas. Because the entire site is located within a Regulated Area and Evaluation Area of the 2005 *Approved Countywide Green Infrastructure Plan*, and within the watershed of Mattawoman Creek, woodland conservation should be provided on-site and according to the priorities established by the WCO to the fullest extent possible. On-site preservation of existing woodlands in expanded riparian buffer areas which provide potential Forest Interior Dwelling Species (FIDS) habitat is the highest priority.

The applicant has proposed to provide the entire woodland conservation requirement on-site through a combination of woodland preservation and reforestation.

The Type 2 Tree Conservation Plan (TCP2-011-13) has also been reviewed for conformance with the technical requirements of the Woodland and Wildlife Habitat Conservation Ordinance and the Environmental Technical Manual (ETM), effective September 1, 2010.

The TCP2 was found to be in conformance with the ETM except for technical revisions which must be addressed prior to certificate approval. Those modifications are included in the Recommendations Section of this report.

b. **Woodland Conservation Easement**—Section 25-122(d)(1)(B) of the County Code requires that woodlands preserved, planted or regenerated in fulfillment of woodland conservation requirements on-site be placed in a woodland conservation easement recorded in the land records. This is in conformance with the requirements of the state Forest Conservation Act which requires that woodland conservation areas have long-term protection measures in effect at all times. This requirement applies to TCP1 applications approved after September 1, 2010 and are not grandfathered.

The recordation of a woodland conservation easement is required prior to the signature approval of a TCP2 for a development application that includes on-site woodland conservation areas.

c. **Variance from Section 25-122(b)(1)(G)—**Effective October 1, 2009, the state Forest Conservation Act was amended to include a requirement for a variance if a specimen, champion, or historic tree is proposed to be removed. This state requirement was incorporated in the adopted WCO effective on September 1, 2010.

TCP2 applications are required to meet all of the requirements of Subtitle 25, Division 2 which includes the preservation of specimen trees, Section 25-122(b)(1)(G). Every effort should be made to preserve the trees in place, considering the different species' ability to withstand construction disturbance.

After careful consideration has been given to the preservation of the specimen trees and there remains a need to remove any of the specimen trees, a variance from Section

25-122(b)(1)(G) is required. Applicants can request a variance from the provisions of Subtitle 25 provided all of the required findings in Section 25-119(d) can be met and the request is not less stringent than the requirements of the applicable provisions of the COMAR. An application for a variance must be accompanied by a Letter of Justification stating the reasons for the request and how the request meets each of the required findings.

A Subtitle 25 Variance Application and a statement of justification in support of a variance for the removal of specimen trees were received by the Environmental Planning Section (EPS) on January 6, 2014. The specimen tree table on the TCP2 shows two specimen trees. The specimen tree table on the TCP2 and the statement of justification indicate the proposed removal of both specimen trees.

Section 25-119(d) of the WCO contains six required findings in [**bold text**] to be made before a variance can be granted. The Letter of Justification submitted seeks to address the required findings for the removal of two on-site specimen trees. Specimen Tree-1 (ST-1) is a 34-inch diameter American beech (Fagus grandifolia) in poor condition. Specimen Tree-2 (ST-2) is a 39-inch diameter American beech (Fagus grandifolia) in fair condition.

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

Comment: The two trees proposed to be removed are located within the central area of the site with existing ground elevations of 225 and 229 feet. Extensive fill is proposed on the site to provide a large flat pad site for the proposed use. Retaining the trees would make development of the site difficult because of the requirements to clear and grade the site in preparation for establishing the grades necessary for the installation of solar panels.

The trees proposed for removal are both American beech, in poor to fair condition. Beech trees are known to be intolerant of construction, and sensitive to root zone impacts. Protection of the critical root zone of the two specimen trees, based on their current health and vitality is possible, but would be unlikely to result in the long term retention of the trees. The proposed industrial use of the site, the extensive fill proposed, and changes to on-site hydrology would result in unsatisfactory results and an unwarranted hardship on the applicant who is seeking to develop the site in accordance with the existing zoning and allowed uses.

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

Comment: If other properties encounter similar species, in a similar location on a site, and in a similar condition, the same considerations would be provided during the review of the required variance application.

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

Comment: If other properties encounter similar species, in similar locations on a site, in similar condition, the same considerations would be provided 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

Comment: The existing conditions or circumstances are not the result of actions by the applicant.

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

Comment: The request to remove the trees does not arise from any condition on a neighboring property.

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

Comment: All proposed land development activities will require sediment control and stormwater management measures to be reviewed and approved by the County.

Staff believes that the required findings of Section 25-119(d) of the County Code have been adequately addressed for the proposed removal of Specimen Trees 1 and 2.

16. **Tree Canopy Coverage Ordinance:** The Tree Canopy Coverage Ordinance came into effect on September 1, 2010. All activities that require a grading permit after September 1, 2010 must provide the tree canopy coverage (TCC) percentages required by Section 25-128 of the Prince George's County Code. A TCC schedule has been provided on the landscape plan that demonstrates the site's conformance with the requirement. The site provides 33 percent, or 18.96 acres, of tree canopy with woodland conservation. The required tree canopy for this site is ten percent.

17. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

a. **Community Planning Division—**The Community Planning Division provided an analysis of the submission in a memorandum dated July 17, 2014. The 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* retained the subject property in the I-3 (Planned Industrial) Zone. The master plan designates industrial land use as the recommended future land use on the subject property. The proposal is consistent with this recommendation. This application should be referred to Joint Base Andrews for comment to ensure the proposed use does not pose a hazard to air navigation:

Comment: The subject application was referred to Joint Base Andrews for comment. Those comments are included in this report in Finding 17k.

b. **Environmental Planning Section—**In a memorandum dated May 28, 2014, the Environmental Planning Section provided the following comments:

(1) The property is subject to the environmental regulations of Subtitle 27 that came into effect on September 1, 2010 because there are no previously approved

development plans.

The project is also subject to the Woodland and Wildlife Habitat Conservation Ordinance effective September 1, 2010, because there are no previous tree conservation plan approvals for the site.

(2) Site Description: The subject property is a 56.91-acre site located between Timothy Branch and the Consolidated Rail Corporation railroad tracks between Timothy Road and Cedarville Road. A review of the available information indicates that there are intermittent streams and buffers extending onto the property, and associated nontidal wetlands and buffers, but no 100-year floodplain was found to occur on-site. The predominant soils found to occur according to the USDA NRCS Web Soil Survey are Aquasco, Beltsville, Croom-Marr and Grosstown. The Beltsville soils are in hydrologic group C and identified as hydric. According to PGAtlas.com, Prince George's County GIS database, Marlboro or Christiana clay does not occur on or in the vicinity of this site. The site has access to Timothy Drive, using a 30-foot-wide ingress/egress right-of way extending to the north, and to Mattawoman Drive through an access easement crossing properties to the south of the subject property. The site is not within a Sensitive Species Review Area based on the SSPRA GIS layer prepared by the Heritage and Wildlife Service, Maryland Department of Natural Resources, but does contain a significant block of forest interior dwelling species habitat. The site is located within the Timothy Branch subwatershed, which drains to Mattawoman Creek and the Lower Potomac River. According to PGAtlas.com, this site contains Regulated and Evaluation Areas within the designated network of the 2005 *Approved Countywide Green Infrastructure Plan,* and is located in the Mattawoman Creek Special Conservation Area. Regulated environmental features are located on-site that should be preserved in conformance with the requirements of the woodland and wildlife habitat conservation ordinance.

(3) An approved Natural Resource Inventory, NRI-039-12, in general conformance with the environmental regulations that became effective September 1, 2010, was submitted with the application, but does not accurately reflect the full extent of Forest Interior Dwelling Species habitat located on the site.

Prior to certification of the CSP and DSP, the NRI should be revised to reflect the full delineation of potential FIDS habitat on-site, linking with the adjacent riparian forest system, based on the definitions of FIDS habitat contained in Subtitle 25, Division 2.

(4) An approved Stormwater Management Concept plan and approval letter was submitted with the subject application (24467-2012-00). The concept approval is for rough grading only "to prepare for future industrial development"and indicates that the stormwater concept will be superseded once ultimate development is confirmed. No stormwater management facilities are shown on the stormwater management concept plan, TCP2, CSP or DSP for this development.

The current application is for a specific allowed use and development of that allowed industrial use. There is a significant difference in stormwater run-off

quantity between 43.00 acres of existing woodlands in good condition, and 43.00 acres of turf which will occur under the development proposed. The stormwater management concept should be revised to reflect the proposed use of the site for the placement of extensive solar panels on the site assuming the installation will have a life-span of approximately 20 years, and provide for appropriate stormwater management with the current proposal.

Comment: The applicant provided a revised Stormwater Management Concept Approval No. 24467-2012-01, which is valid until December 19, 2016. The SWM concept approval is for the installation of solar panels. Micro bioretention areas are proposed for the access road, maintenance building, and parking lot. No further information is requested.

(5) Prior to grading of the site, the county requires the approval of an Erosion and Sediment Control Plan. The Tree Conservation Plan must reflect the ultimate limits of disturbance (LOD) not only for installation of permanent site infrastructure, but also for the installation of all temporary infrastructure including Erosion and Sediment Control measures. A copy of the Erosion and Sediment Control Concept Plan must be submitted prior to CSP certification so that the ultimate limits of disturbance for the project can be verified and correctly shown on the TCP2.

A copy of the final Erosion and Sediment Control Plan must be submitted prior to the issuance of grading permits to the ultimate limits of disturbance for the project can be verified, and consistency between the limit of disturbance on all plans can be confirmed.

(6) The predominant soils found to occur according to the USDA NRCS Web Soil Survey are Aquasco, Beltsville, Croom-Marr and Grosstown. The Beltsville soils are in *hydrologic group C* and identified as *hydric*.

The application shows a significant amount of fill being placed on the site to create a development pad. At the northern boundary of the site, where the subject property is adjacent to residential development, the elevation is proposed to be raised by 18 feet in elevation in the northeast corner of the site and 25 feet in elevation at the western end of the pad site. This will have a significant visual impact on the adjacent residential dwellings, especially in areas where all trees are proposed to be removed, and a new landscape buffer via reforestation is proposed. The buffering proposed on the plan is 60 feet of existing woodlands and an additional 60 feet of reforestation to provide a transition between the proposed industrial use and existing residential uses to the north.

Comment: The Environmental Planning and Urban Design Staff recommends that the reforestation schedule be modified to include evergreen trees in addition to the proposed native deciduous trees in order to provide a more complete year-round buffer around the perimeter of the proposal.

(7) Section 27-288(a) Effect of an approved Detailed Site Plans states the following:

(a) Grading, building, and use and occupancy permits shall be issued only in accordance with the approved Detailed Site Plan, and all development and use shall be as shown on the plan. Any departure

from the plan shall be cause for revocation of a building permit or denial of a use and occupancy permit, unless the plan is amended in accordance with the procedure set forth in Section 27-289.

The proposed use of the site as shown on the CSP and DSP is a solar photo-voltaic array. This type of use will require approval from the Public Service Commission (PSC), following the appropriate procedures for the size and generating capacity proposed.

Staff is concerned that no grading, specifically clearing of woodlands within the Mattawoman Special Conservation Area, be allowed on the site until there is some assurance that full construction can be implemented in accordance with the use approved by the CSP and DSP. Full implementation of the project cannot occur without PSC approval. In order to prevent extensive clearing and filling from occurring prematurely on the subject property, and the subsequent loss of woodlands and conservation habitat, staff recomments that a grading permit not be issued for this site until PSC approval for implementation of the solar–array is issued.

Comment: It is likely that the project will need PSC approval, however, it might qualify for an exemption. Nevertheless, the applicant should provide evidence that an interconnection agreement with a local electric company or public utility provider has been reached prior to M-NCPPC approval of grading permits.

c. **Subdivision Review Section—**In memoranda dated April 25, 2014, and July 1, 2014, the Subdivision Review Section provided the following comments:

(1) The subject site is known as Parcels 6 and 7 and located on Tax Map 155 in Grid B-1, and part of Lot 21. The site is 56.91 acres and is zoned I-3 (56.61 acres) and R-R (12,825 square feet), and is currently wooded and undeveloped. The applicant submitted a conceptual site plan and detailed site plan for the development of a solar panel farm with 4,750 square feet of gross floor area (GFA) for an office use.

(2) Section 24-107 of the Subdivision Regulations provides for exemptions from the requirement of filing a preliminary plan of subdivision (PPS) for deed parcels. Specifically, in this instance (including that part of Lot 21 created by deed) the property is subject to Section 24-107(c)(7)(B) which provides:

> **(7) Any subdivision of land by deed of a lot prior to January 1, 1982, provided:**
>
> **(B) The total development proposed for the subdivision on a property that is not subject to a Regulating Plan approved in accordance with Subtitle 27A of the County Code and does not exceed five thousand (5,000) square feet of gross floor area.**

Pursuant to Section 24-107(c)(7)(B) of the Subdivision Regulations, the site is exempt from the requirement of filing a PPS because the development proposed (4,750 square feet of GFA) does not exceed five thousand (5,000) square feet of

gross floor area.

(3) Parcels 6 and 7 (I-3) are legal deed parcels that have never been the subject of a PPS or record plat. Part of Lot 21 (R-R) is a 30-foot-wide strip of land (12,825 square feet) which was created by deed and recorded in Liber 788 at Folio 295 on July 30, 1945, which is a legal division of land. In discussions with the applicant after the original acceptance of this application, staff was advised that the site in fact does have frontage along Part of Lot 21. The applicant then revised the DSP (dated March 14, 2014) to include part of Lot 21 (R-R) into the CSP and DSP. Therefore, the property is not landlocked and in fact does have frontage on a dedicated public street known as Timothy Road to the north which is a 30-foot-wide non-standard residential street within the Brandywine Heights residential neighborhood.

(4) The applicant is proposing to access the site via a private easement extending south across Parcels 8 and 10 to Mattawoman Drive, a dedicated public street (VJ 173-92) with a 120-foot-wide right-of-way (ROW), which stubs into the south property line of Parcel 10. Parcels 8 and 10 are zoned I-2 and are also owned by the applicant, Soil Safe. A revised Ingress/Egress Easement Exhibit dated May 21, 2014, was submitted and referred to the Subdivision Section for comment on June 2, 2014. The exhibit contains sufficient information to determine adequate access for the site. In discussions with Washington Gas regarding the co-location of the access easement within a Washington Gas 50-foot-wide right-of-way, Washington Gas indicated that the application can move forward with the location of the access easement as proposed, but the applicant will need to coordinate with Washington Gas at the time of grading or construction.

d. **Transportation Planning Section—**In a memorandum dated January 2, 2014, the Transportation Planning Section provided a review of the CSP and DSP. The conceptual and detailed site plans are requirements of the I-3 Zone. The plans must address general conceptual and detailed site plan requirements. The transportation-related findings related to both application types are extremely limited, and are related to issues of access. It appears that the single building is less than 5,000 square feet, and therefore a preliminary plan of subdivision will not be required. Due to the limited requirements of the site plans coupled with the limited trip-generating development being proposed, there is no means of reviewing off-site traffic issues. There are no prior approvals to which these plans must conform.

The site encompasses two unrecorded parcels. The applicant proposes a solar farm with two inverters and an operations building of 4,750 square feet. The development is estimated to generate 4 AM and 4 PM peak-hour vehicle trips; therefore, even if a subdivision were to be processed the traffic impact would be deemed to be *de minimus.* Access is proposed using a driveway across an adjacent property to Mattawoman Drive, a public street. While this is acceptable given the limited trip generation of the site, a right of access across the adjacent property is required prior to permit issuance.

Circulation is acceptable. The transportation staff has no comment regarding the layout of the fixtures proposed for this property.

The site is not within or adjacent to any transportation master plan facilities.

e. **Historic Preservation Section—**In memoranda dated October 24, 2013 and November 14, 2013, the following analysis was provided:

A Phase I archeology survey was conducted on the subject property from August 2013 to September 2013. Two archeological sites, 18PR1061 and 18PR1062, were identified on the Mattawoman-Brandywine Commerce Center Property. Site 18PR1061 is a mid-twentieth century dwelling site with a ruined fireplace, chimney stack and brick-lined well located in the north central part of the property. Site 18PR1062 is an early nineteenth-century dwelling site located in the northwest portion of the property. Neither site retained sufficient integrity to warrant further investigations. No further work was recommended on sites 18PR1061 and 18PR1062.

Historic Preservation staff concurs with the conclusion and recommendation of the Phase I archeological study that no further archeological work is necessary on the Mattawoman-Brandywine Commerce Center North property. The solar power electric generating facility will also have no effect on identified Historic Sites, Resources, or Districts.

f. **Special Projects Section—**In a memorandum dated October 30, 2013, the Special Projects Section provided no comment on the proposal, and indicated that it would have no impact on existing public facilities.

g. **Prince George's County Department of Public Works and Transportation (DPW&T)—**During the review process the grading plan for the site was revised. In a memorandum dated June 10, 2013, DPW&T indicated that the site has an approved Stormwater Management Concept Plan No. 24467-2012. The grading is not consistent with the approved concept plan and the concept plan should be revised.

Comment: The applicant has obtained a revised Stormwater Management Concept Plan. This approved SWM concept plan reflects the solar installation proposal, and is valid until December 19, 2016.

h. **Prince George's County Health Department—**In a memorandum dated November 7, 2013, the Health Department indicated that they completed a desktop health impact assessment review of Conceptual Site Plan CSP-12002 and Detailed Site Plan DSP-12033, Mattawoman-Brandywine Commerce Center North and have no comments.

i. **Potomac Electric Power Company (PEPCO)**—In an e-mail dated January 28, 2014 (Zellmer to Fields), PEPCO indicated that the subject site is outside Pepco's distribution service territory.

j. **Southern Maryland Electric Cooperative (SMECO)**—In a memorandum dated February 14, 2014, SMECO provided summarized comments on the CSP and DSP, as follows:

(1) SMECO has no pending interconnection request for the referenced solar farm project and has not granted conditional approval to interconnect to the local electric distribution system. As such, SMECO respectfully requests Prince George's County withhold plan approval at this time.

(2) SMECO's electric service territory is non-Federal Energy Regulatory

Commission (FERC) jurisdictional and as such does not facilitate system interconnections for the purpose of participating directly with the Pennsylvania-New Jersey-Maryland Interconnection (PJM) marketplace at this time. Any such interconnection needs to occur through a negotiated purchase power agreement (PPA) directly with SMECO.

Comment: In response to the referral, the applicant indicated that connection with SMECO is not the only means of providing the proposed public utility service. Evidence of an interconnection agreement should be provided prior to grading permits.

k. **Department of the Air Force**—In a memorandum dated May 28, 2014, the following information was provided by the Department of the Air Force:

(1) The proposed Mattawoman Solar Power Facility property is located adjacent to the Joint Base Andrews- Naval Air Facility Washington Brandywine Communications Facility. This communications facility is critical to Joint Base Andrews operations and could be affected by any radio frequency noise generated by the proposed solar plant equipment. Additionally, there is potential glare resulting from the solar arrays that require additional analysis to determine impacts to flight operations.

(2) Joint Base Andrews leadership met with the applicant on April 21, 2014, to discuss the concept. In order to address the existing and ongoing Joint Base Andrews technical concerns discussed above, a second meeting was held on May 20, 2014 with technical experts from Energy Ventures and Joint Base Andrews.

(3) During our May 20, 2014 meeting with the applicant, the Air Force outlined the potential encroachment concerns that could result from the construction of the proposed solar facility. The primary concern is radio frequency interference from the facility could result in a change to the existing radio interference noise floor which could impact operations at the communications facilities. As a result of separate Mattawoman and Keys Natural Gas Generation Plant proposals, also in the vicinity of Brandywine Communications Facility, the Department of Defense Joint Spectrum Center is currently undertaking a study to evaluate the current level of radio frequency interference in the Brandywine area and the effect of the two proposed natural gas generation facilities on the communications facilities. We expect this study and our subsequent review, to be completed by July 31, 2014. However, this study will only evaluate the impacts of two proposed natural gas generation facilities and additional study will be needed to understand the cumulative impacts of the proposed solar facility.

(4) The Air Force and Energy Ventures discussed the potential of obtaining data on existing solar facilities which could provide comparable technical comparisons to the proposed facility. Because the solar facility's investors may present the primary impact to the noise floor, the invertor manufacturer may have existing data that could also benefit the Air Force's technical analysis. Energy Ventures provided the requested information to Joint Base Andrews on May 23, 2014. Their input includes the specifications for a the solar array modules, solar invertors, the latitude and longitude of the proposed facility, and four potential comparable test locations where radio frequency emissions could be evaluated.

Using this information, the Air Force will continue to work with Energy Ventures to determine any potential impact and mitigation techniques to ensure the proposed solar facility does not negatively impact Joint Base Andrews operations.

Comment: Joint Base Andrews raised a number of topics regarding the proposal, but did not specifically discuss the applicant's proposal to supply Joint Base Andrews with electricity generated by the subject solar facility.

l. **Prince George's County Police Department—**No Crime Prevention Through Environmental Design (CPTED)-related issues were raised with the subject application.

18. Based upon the foregoing analysis and as required by Section 27-276(b)(1) of the Zoning Ordinance, the subject conceptual site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9 of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

In addition, as required by Section 27-276(b)(4) of the Zoning Ordinance, staff recommends that the Planning Board find that the regulated environmental features on the site have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24-130(b)(5) of the Subdivision Regulations. Non-tidal wetlands and wetland buffers, streams and associated buffers are found to occur on this property. These features and the associated buffers comprise the primary management area (PMA) on the subject property. The site also contains an isolated wetland along the northern property line. The regulated environmental features delineated on the CSP are outside of the development envelope on the subject property and have been preserved and/or restored to the fullest extent possible based on the information provided. No PMA impacts are approved with the current application.

19. Based upon the foregoing analysis and as required by Section 27-285(b)(1) of the Zoning Ordinance, the subject detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9 of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

In addition, as required by Section 27-285(b)(4) of the Zoning Ordinance, staff recommends that the Planning Board find that the regulated environmental features on the site have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24-130(b)(5) of the Subdivision Regulations. Non-tidal wetlands and wetland buffers, streams and associated buffers are found to occur on this property. These features and the associated buffers comprise the primary management area (PMA) on the subject property. The site also contains an isolated wetland along the northern property line. The regulated environmental features delineated on the DSP are outside of the development envelope on the subject property and have been preserved and/or restored to the fullest extent possible based on the information provided. No PMA impacts are approved with the current application.

RECOMMENDATION FOR CONCEPTUAL SITE PLAN CSP-12002

Based upon the foregoing evaluation and analysis, the Urban Design staff recommends that the Planning Board adopt the findings of this report and APPROVE Conceptual Site Plan CSP-12002, and

variances to Sections 27-471(h)(1) and 27-474(d), for Mattawoman-Brandywine Commerce Center, subject to the following conditions:

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

    a. Clearly label the extent of Parcels 6 and 7, and part of Lot 21 providing acreage and zoning.

    b. Label the denial of access to Timothy Road pursuant to Section 24-128(b)(9).

    c. Add the following note:
    "Vehicular access for the site is via an easement through the abutting properties to the south (Parcels 8 and 10) connecting to Mattawoman Drive pursuant to Section 24-128(b)(9)). The access easement is reflected on the Applicant's Ingress/Egress Easement Exhibit, to be authorized by the Planning Board with the approval of final plats prior to building permit approval."

    d. Correct the acreage of the land that is the subject of the DSP to include part of Lot 21.

2. Prior to certification of the CSP, the natural resource inventory (NRI) shall be revised to reflect the full delineation of potential forest interior dwelling species (FIDS) habitat on-site, linking with the adjacent riparian forest system, based on the definitions of FIDS habitat contained in Subtitle 25, Division 2.

3. Prior to CSP certification, a copy of the approved Erosion and Sediment Control Concept Plan shall be submitted to the Environmental Planning Section to confirm the ultimate limit of disturbance (LOD) and conformance with the limit of disturbance shown on the TCP.

RECOMMENDATION FOR DETAILED SITE PLAN DSP-12033 AND TYPE 2 TREE CONSERVATION PLAN TCP2-011-13

Based upon the foregoing evaluation and analysis, the Urban Design staff recommends that the Planning Board adopt the findings of this report and APPROVE Detailed Site Plan DSP-12033, Type 2 Tree Conservation Plan TCP2-011-13, and a variance to Section 25-119(d), for Mattawoman-Brandywine Commerce Center, subject to the following conditions:

1. Prior to certification of this detailed site plan (DSP), the following revisions shall be made, or information shall be provided:

    a. Delineate the right-of-way width for Timothy Road.

    b. Provide new MNCPPC approval blocks on the plan.

    c. Revise the Ingress/Egress Easement Exhibit as follows:

        (1) Provide the proposed bearings and distances and square footage of the proposed vehicular access easement.

        (2) Provide numbering which will include this as a sheet in the DSP site plan.

d. Clearly label the extent of Parcels 6 and 7, and part of Lot 21 providing acreage and zoning.

e. Label the denial of access to Timothy Road pursuant to Section 24-128(b)(9).

f. Add the following note:
"Vehicular access for the site is via an easement through the abutting properties to the south (Parcels 8 and 10) connecting to Mattawoman Drive pursuant to Section 24-128(b)(9)). The access easement is reflected on the Applicant's Ingress/Egress Easement Exhibit, to be authorized by the Planning Board with the approval of final plats prior to building permit approval."

g. Correct the acreage of the land that is the subject of the DSP to include part of Lot 21.

h. Indicate conformance to Section 4.7 of the 2010 *Prince George's County Landscape Manual* along the western property line.

i. Indicate that a grass surface will be provided for the solar field.

j. Indicate an asphalt or paved surface for the parking area.

2. Prior to certification of the detailed site plan, the Type 2 tree conservation plan shall be revised as follows:

a. Note 1 shall be revised to remove the second sentence.

b. A permanent tree protection device shall be shown on the TCP2 plan along the vulnerable edges of any afforestation/reforestation area.

c. The approval block shall be revised to include the TCP2 number in the correct hyphenated format and the associated site plan number shall be listed by the approval

d. The revised plan shall be signed and dated by the Qualified Professional who prepared it.

e. Add the following note:

"NOTE: This plan is in accordance with the following: A variance from the strict requirements of Subtitle 25 approved by the Planning Board on (Add Date of Approval) for the removal of two specimen trees (Section 25-122(b)(1)(G)), ST-1 and ST-2."

f. Include conifer planting within the reforestation planting schedule.

3. Prior to the signature of the TCP2 for this site, the liber and folio of the recorded woodland and wildlife habitat conservation easement shall be added to the standard Type 2 Tree Conservation Plan notes on the plan as follows:

"Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George's County Land Records at Liber _____ Folio____. Revisions to this TCP2 may require a revision to the recorded easement."

4. Prior to Maryland-National Capital Park and Planning Commission (M-NCPPC) approval of building permits, the applicant, their heirs, successors, and assignees shall submit to M-NCPPC for approval a draft vehicular access easement benefitting Parcels 6 and 7 which extends across Parcels 8 and 10 to Mattawoman Drive, as reflected on the approved DSP-12033. The final plats shall include the benefitted and encumbered properties (Parcels 6, 7, 8, and 10) and shall be approved by the Planning Board authorizing the access easement pursuant to Section 24-128(b)(9) of the Subdivision Regulations.

   a. The final plat shall delineate the alignment of the easement with bearings and distances.

   b. The easement document shall set forth the rights, responsibilities and liabilities of the parties and the liber/folio of the easement, shall include the rights of M-NCPPC, and will be reflected on the plat prior to recordation.

5. Prior to M-NCPPC approval of any permits for this site, technical stormwater management plans for the subject property shall be submitted to the Environmental Planning Section which address appropriate stormwater management elements for the approved use of the site.

6. Prior to M-NCPPC approval of grading permits, a copy of the final Erosion and Sediment Control Plan shall be submitted to the Environmental Planning Section so the ultimate limits of disturbance for the project can be verified, and consistency between the limit of disturbance on all plans can be confirmed.

7. Prior to M-NCPPC approval of grading permits, the applicant shall provide evidence of an interconnection agreement between the proposed electric generating station and a local electric company or public utility provider.