

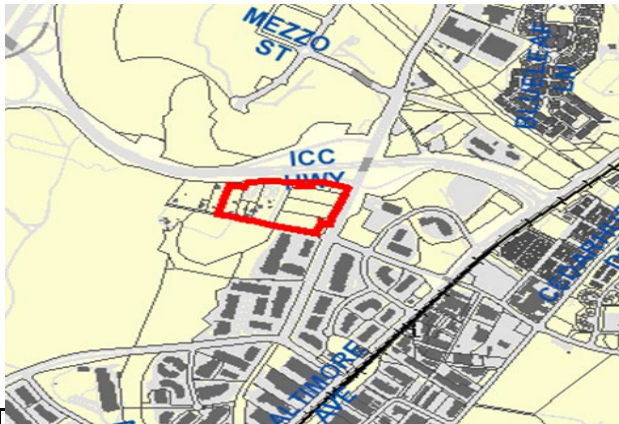


The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

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

Special Exception Muirkirk Warehouses

SPE-2022-005

REQUEST		STAFF RECOMMENDATION	
Special exception for the use of two distribution warehouses.		With the conditions recommended herein: <ul style="list-style-type: none">• Approval of Special Exception SPE-2022-005• Approval of Type 2 Tree Conservation Plan TCP2-032-2023• Approval of a Variance to Section 25-119(d)	
Location: In the southwest quadrant of the intersection of Konterra Drive and MD 200 (Intercounty Connector).			
Gross Acreage:	24.31		
Zone:	IE		
Prior Zone:	I-3		
Dwelling Units:	N/A		
Gross Floor Area:	269,200 sq. ft.		
Lots:	0		
Parcels:	2		
Planning Area:	60		
Council District:	01		
Municipality:	None		
Applicant/Address: Muirkirk Enterprises, LLC 7315 Wisconsin Avenue, Suite 800W Bethesda, MD 20814		Planning Board Date:	11/02/2023
Staff Reviewer: Todd Price Phone Number: 301-952-3994 Email: Todd.Price@ppd.mncppc.org		Planning Board Action Limit:	N/A
		Staff Report Date:	10/19/2023
		Date Accepted:	08/25/2023
		Informational Mailing:	09/15/2022
		Acceptance Mailing:	08/14/2023
		Sign Posting Deadline:	N/A

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

Table of Contents

I.	EVALUATION CRITERIA.....	4
A.	Prince George’s County Zoning Ordinance.....	4
B.	Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance.....	4
C.	Prince George’s County Tree Canopy Coverage Ordinance.....	5
II.	BACKGROUND	5
A.	Summary and Request.....	5
B.	Development Data Summary	5
C.	Location and Site Description.....	5
D.	Proposed Use(s)	5
E.	Neighborhood and Surrounding Uses.....	5
F.	History and Previous Approvals.....	6
III.	COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ZONING ORDINANCE.....	6
IV.	COMPLIANCE WITH APPLICABLE PROVISIONS OF THE 2018 PRINCE GEORGE’S COUNTY LANDSCAPE MANUAL	16
V.	COMPLIANCE WITH APPLICABLE PROVISIONS OF THE 2010 PRINCE GEORGE’S COUNTY WOODLAND AND WILDLIFE HABITAT CONSERVATION ORDINANCE	16
VI.	COMPLIANCE WITH APPLICABLE PROVISIONS OF THE PRINCE GEORGE’S COUNTY TREE CANOPY COVERAGE ORDINANCE	19
VII.	REFERRAL COMMENTS.....	19
VIII.	COMMUNITY FEEDBACK.....	21
IX.	RECOMMENDATION.....	21

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jeremy Hurlbutt, Supervisor, Zoning Section,
Development Review Division

FROM: Todd Price, Planner II, Zoning Section,
Development Review Division

SUBJECT: Special Exception SPE-2022-005
Muirkirk Warehouses

REQUEST: Special exception for the use of two distribution warehouses.

RECOMMENDATION: **APPROVAL, with conditions**

NOTE:

The Prince George's County Planning Board has scheduled this application on the consent agenda, for transmittal to the Zoning Hearing Examiner, on the agenda date of November 2, 2023.

You are encouraged to become a person of record in this application. Requests to become Persons of Record should be submitted electronically, by email to: ZHE@co.pg.md.us. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

The Zoning staff has reviewed the subject application and presents the following evaluation and findings leading to a recommendation of APPROVAL, with conditions, as described in the Recommendation section of this technical staff report.

I. EVALUATION CRITERIA

A. Prince George's County Zoning Ordinance. Special exceptions (SPEs) are reviewed and decided by the Prince George's County Zoning Hearing Examiner. Pursuant to Section 27-3604(e) of the Prince George's County Zoning Ordinance, SPEs may only be approved upon a finding that all the following standards are met:

1. The proposed use and site plan are in harmony with the purpose of this Subtitle;
2. The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
3. The proposed use shall be consistent with the General Plan and shall conform with the relevant goals, policies, and strategies of the applicable Area Master Plan, Sector Plan, or Functional Master Plan for the subject property and its surrounding area;
4. The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;
5. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
6. The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and
7. The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24: Subdivision Regulations.

In addition, all SPE applications must comply with Section 27-5401 of the Zoning Ordinance, regarding setbacks, landscaping, buffering, and screening.

B. Prince George's County Woodland and Wildlife Habitat Conservation Ordinance. Pursuant to Section 25-119(a)(2)(B) of the Prince George's County Code, SPE applications shall include a Type 2 tree conservation plan (TCP2) or a standard letter of exemption. If a site requires approval of a TCP2, with an associated SPE application, the TCP2 is reviewed simultaneously with the associated plan (See V.).

- C. **Prince George's County Tree Canopy Coverage Ordinance.** The site is subject to the requirements of the Prince George's County Tree Canopy Coverage Ordinance and must provide a minimum of 10 percent of the limits of disturbance to be covered in tree canopy, due to the site being redeveloped and located in the Industrial, Employment Zone (See VI.).

II. BACKGROUND

- A. **Summary and Request:** Special exception for the use of two distribution warehouses.

- B. **Development Data Summary:**

	EXISTING	EVALUATED
Zone(s)	IE (prior I-3)	IE
Use	Vacant/Residential	Distribution Warehouse
Lot(s)	1	0
Parcel(s)	10	2
Total Gross Acreage	24.31	24.31
Gross Floor Area	-	269,200 sq. ft.

- C. **Location and Site Description:** The subject property is located in the southwest quadrant of the intersection of Konterra Drive and MD 200 (Intercounty Connector). It is located on Tax Map 9, in Grids C4 and D4, and consists of 10 parcels and one lot (Lot 30). The parcels are known as Parcels 84, 85, 91, 115, 116, 117, 118, 128, 171, and 172. The easternmost portion of the property, with frontage on Konterra Drive, is vacant and unimproved. The center portion is improved with a single-family dwelling. The western portion of the site consists of vacant property to the north, and three single-family dwellings to the south. The existing structures will be razed. The subject property contains various environmental features that include steep slopes, perennial streams, 100-year floodplain, and wetlands.
- D. **Proposed Use(s):** The subject application is for the development of two, single-story distribution warehouses, which requires a SPE. The applicant proposes two separate distribution warehouses on two separate parcels. On Parcel 1, which will cover the eastern portion of the site, the applicant proposes a 122,200-square-foot distribution warehouse. On Parcel 2, which will cover the western portion of the site, the applicant proposes a 147,000-square-foot distribution warehouse. There is no internal circulation roadway connecting the two warehouses.
- E. **Neighborhood and Surrounding Uses:** The general neighborhood is industrial and commercial in character. The neighborhood is bordered by MD 200 to the north, US 1 (Baltimore Avenue) to the east, Virginia Manor Road to the south, and I-95/495 (Capital Beltway) to the west. Muirkirk Road will be the primary access to the development. The immediate uses surrounding the subject property are as follows:

North— MD 200, and beyond by vacant land proposed for mixed use in the Transit-Oriented/Activity Center Zone Core area.

- East—** Konterra Drive, and beyond to US 1 by commercial and industrial uses in the Industrial, Employment (IE) and Legacy Comprehensive Design (LCD) Zones.
- South—** Muirkirk Road, and beyond by commercial and industrial uses in the IE and LCD Zones.
- West—** Industrial and residential uses in the IE Zone and vacant land in the Residential, Rural Zone.

- F. History and Previous Approvals:** Lot 30 was the subject of Preliminary Plan of Subdivision (PPS) 4-76145, approved in 1961. However, no records remain. A new PPS will be required for the proposed development, for the resubdivision of the property into two parcels. The approval of a certificate of adequacy (ADQ) will be required at the time of PPS.

The site is also the subject of Stormwater Management (SWM) Concept Plan 37756-2022-0, approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) on July 11, 2023, and is valid until July 11, 2026.

III. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ZONING ORDINANCE

This application, to permit a distribution warehouse use through a SPE, is being reviewed in accordance with the Zoning Ordinance. The analysis of all required findings for approval are provided below.

- A. General Special Exception Findings—**Section 27-3604(e) of the Prince George's County Zoning Ordinance provides the following applicable findings:

(1) A Special Exception may be approved if:

- (A) The proposed use and site plan are in harmony with the purpose of this Subtitle.**

The purposes of Subtitle 27 of the Prince George's County Code, as set forth in Section 27-1300 of the Zoning Ordinance, are to protect the health, safety, and welfare of the public; to promote compatible relationships between various land uses; to guide orderly development; and to ensure adequate public facilities and services. The proposed SPE is in harmony with these purposes as follows:

Staff find that the proposed development will not negatively impact the health, safety, and welfare of the public. The proposed distribution warehouse facilities will provide quality infill development on land that has remained mostly undeveloped, but is within a largely commercial and industrial neighborhood.

The distribution warehouse facilities are compatible with the surrounding land uses in that they would complement the adjacent existing industrial and commercial uses. As noted above, the subject property abuts land to the west that is zoned IE, but is developed with residential and industrial uses. The buildings are proposed to be situated internal to the site and will be screened from the abutting properties to the west by a 40-foot landscape buffer.

The warehouse development will be required to ensure adequate public facilities and services. Specifically, this proposal will be subject to a PPS to determine the adequacy of public facilities.

The proposed SPE use and site plan demonstrate harmony with the purposes of Subtitle 27 of the County Code.

(B) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

The proposed use is in conformance with the requirements and regulations set forth in Subtitle 27.

The proposed use is being evaluated according to the general required findings of approval for all SPEs contained in Section 27-3604(e).

The application also demonstrates conformance with the IE Zone development regulations, and development standards contained in Part 27-6 of the Zoning Ordinance. The applicant has provided the proposed site layout and representative architecture to supplement the SPE site plan. The applicant proposes an increase in the maximum lot coverage and a decrease in green area. Prince George's County Council Bill CB-40-2023 added Footnote 6 to Section 27-4203(e)(2) of the Zoning Ordinance, that reads as follows:

- (6) When approving a special exception or detailed site plan, the decision-making body or official may increase the maximum lot coverage to not more than 80% and may reduce the minimum green area to not less than 20%, upon a showing by the applicant that the proposed maximum lot coverage and minimum green area are reasonably necessary for the proposed use, are compatible with adjacent properties and the neighborhood, and that the increase in the maximum lot coverage will be offset by enhanced SWM, flood control, use of solar or geothermal power, off-site tree mitigation, or similar environmental benefits. No variance from the**

requirements of this Subsection shall be permitted.

The proposed SPE site plan shows lot coverage on Parcel 1 at 72.5 percent, and Parcel 2 at 70.7 percent. Green area is shown on Parcel 1 at 27.5 percent, and Parcel 2 at 29.3 percent. This expanded coverage and reduction in green area is necessary for the development of two distribution warehouses on the property. Distribution warehouses will be a compatible use given the predominantly industrial and commercial character of the neighborhood. The increase in lot coverage will be offset by enhanced SWM and flood control through micro-bioretenention facilities, bioswales, and submerged gravel wetlands. The approved SWM Concept Plan (37756-2022-00) and approval letter demonstrate control for both managing the stormwater generated on-site and for managing the stormwater entering the site via the existing stream north of the site, to alleviate existing flooding conditions along Muirkirk Road.

The SWM concept plan was approved by DPIE on July 11, 2023, and expires on July 11, 2026. However, the layout of the SWM facilities shown on the concept plan is inconsistent with the layout shown on the SPE site plan and the Type 2 tree conservation plan (TCP2).

A condition has been included herein that prior to certification of the SPE, a revised SWM concept plan approval from DPIE that is consistent with the layout of the SPE site plan and the TCP2 must be submitted.

(C) The proposed use shall be consistent with the General Plan and shall conform with the relevant goals, policies, and strategies of the applicable Area Master Plan, Sector Plan, or Functional Master Plan for the subject property and its surrounding area;

The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) classifies this application as located within the Established Communities Growth Policy Area. These areas are most appropriate for context-sensitive infill and low- to medium-density development. The application is consistent with the goals, policies, and strategies of Plan 2035 because the proposed use contributes to the ability to develop a business services industry (warehousing and distribution) cluster.

The 2010 *Approved Master Plan and Sectional Map Amendment for Subregion 1 (Planning Areas 60, 61, 62, and 64)* (master plan) recommends industrial land use on the subject property. The proposed use is consistent with the recommended land use.

Staff find that construction of distribution warehouses is consistent with Plan 2035 and conforms to the relevant goals, policies, and strategies of the master plan for the subject property and its surrounding area. The SPE application, as requested, conforms to this finding.

(D) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

The proposed use will add quality development and employment opportunities to the surrounding community. The lighting plan incorporates full cut-off lighting to minimize spillover lighting. Landscaping is used to buffer the site from surrounding views and uses. Frontage improvements, including sidewalks and bike lanes, will ensure safe modes of transportation. On-site parking and loading adequately meets the needs of employees and visitors. SWM best practices are incorporated into the site, to address runoff and mitigate flooding from upstream sources.

Staff find that the proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area.

(E) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

The general neighborhood is industrial and commercial in character. Furthermore, the adjacent properties are all either in an industrial or commercial zone, or developed with an industrial or commercial use. The proposed development is also of an industrial character, and therefore, is in keeping with the existing and likely future land use of the surrounding area.

As previously noted, the properties to the west are single-family residential and vacant land in the IE Zone. These properties to the west will be buffered by a 40-wide landscape buffer.

Given the mostly industrial and commercial character of the neighborhood, the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

(F) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and

Type 2 Tree Conservation Plan TCP2-032-2023 was submitted with this SPE application. The TCP2 shows 6.78 acres of woodlands in the net tract area and 3.54 acres of woodlands in the floodplain, for a total of 10.32 acres of total woodlands on-site. This application and TCP2 propose to clear 6.53 acres of woodlands in the net tract area and 0.73 acre of woodlands in the floodplain. The current woodland

conservation worksheet, as shown on the TCP2, is incorrectly calculating the woodland conservation requirement. Per Subtitle 25-121(C), Table 1, of the County Code, the woodland conservation threshold and afforestation threshold are both 15 percent in the I-E Zone. The applicant's worksheet uses a 20 percent woodland conservation threshold and 15 percent afforestation threshold, which is overestimating the woodland conservation requirement for this site by 4.98 acres.

Based on the proposed clearing and the thresholds referenced above, the total woodland conservation requirement should be 6.95 acres. The applicant proposes to meet this requirement with 0.25 acre of on-site woodland preservation, 0.95 acre of afforestation/reforestation, and shows 10.73 acres in off-site mitigation credits. However, using the above-referenced thresholds, the off-site mitigation should be corrected to 5.75 acres and will be required to be secured prior to issuance of the first permit. Revisions are required to the woodland conservation worksheet to incorporate this data and the applicant shall make every effort to provide additional woodland conservation requirements on-site.

Section 25-122(c)(1) of the County Code prioritizes methods to meet woodland conservation requirements. The applicant submitted a statement of justification (SOJ) on May 31, 2023, requesting approval of off-site woodland conservation, as reflected on the TCP2 worksheet. The applicant states that on-site preservation cannot be fully utilized because most of the priority woodland on-site for preservation is located within and adjacent to the 100-year floodplain. The applicant is providing a total of 3.06 acres of woodland preservation in this area, of which only 0.25 acre can be credited towards meeting the woodland conservation requirement. The applicant further states that on-site afforestation/reforestation is being provided at two locations; however, the plan has been revised to show a total of three locations of afforestation/reforestation for a total amount of 0.95 acre. Staff noted that there are additional opportunities for on-site afforestation/reforestation. These include further expansion of Reforestation Area B, and adding reforestation to the southern edge of Preservation Area C. These areas must be utilized first to meet the woodland conservation requirement before other options are used.

Per Section 25-122(c)(1)(D), only specimen, champion, and historic trees in good condition are prioritized for preservation over off-site mitigation. There are only 13 specimen trees on-site that meet the minimum good condition requirement for preservation, 9 of which are being requested for removal, as part of the subject application. Staff support the request for removal of these trees (see Part V below). The remaining four trees to be saved are within the wooded floodplain being preserved and cannot be credited.

The next priority is for allowing for credit of natural regeneration on-site; however, given the extensive invasive species on-site, staff does not recommend the use of on-site natural regeneration to meet credit on-site. Therefore, staff agree that once the on-site mitigation options detailed above are exhausted, that off-site mitigation options are then appropriate for the site.

Once the above changes for on-site credit and afforestation/reforestation are shown on the plan, the tree conservation plan worksheet and any associated tables must be revised.

In addition, a variance for the removal of 21 specimen trees has been requested by the applicant. This is further discussed in Part V below.

Further technical revisions to the TCP2 are required and are included in the conditions below.

(G) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24: Subdivision Regulations.

Regulated environmental features (REF) are defined as any regulated streams, nontidal wetlands, and their associated buffers inclusive of any primary management area (PMA). An approved Natural Resources Inventory Plan (NRI-191-2022-01) was submitted with the application, which shows the existing conditions of the property consistent with the SPE application and TCP2. A total of 28 specimen trees have been identified on-site, or within the immediate vicinity of the site's boundary. The site was previously graded as part of a sand and gravel mining operation, which has subsequently regenerated with woodlands and wetlands adjoining an existing regulated stream. There are existing houses located on the western portion of the property.

The site contains REFs that include wetlands, streams, and their associated buffers. County regulated 100-year floodplain is also mapped on-site on either side of the stream. The PMA, which includes REFs, the County regulated 100-year floodplain, and adjoining steep slopes 15 percent or greater, is mapped on-site. The forest stand delineation indicates that there are three separate forest stands on-site, which have high ratings for preservation and high to medium ratings for restoration. The site has a total of 10.32 acres of gross tract woodland, as shown on the NRI, of which 3.54 acres are in the floodplain, and 6.78 acres are in the net tract area.

The REFs on this property, as delineated in the approved NRI plan, include a stream, wetlands, and their associated buffers. The PMA inclusive of these REFs, existing floodplain, and adjacent steep slopes is also mapped centrally on-site, dividing the property into an eastern and western portion on either side of the existing stream. The applicant has submitted a revised letter of justification (LOJ) for two impacts (Impact 1 and Impact 2) to the REFs and PMA.

Impact 1 proposes a SWM system to control both on-site and upstream stormwater via on-site gravel wetlands proposed within the floodplain. This proposed impact is supported as proposed, by staff, as it is a policy of the master plan. However, staff encourage the applicant to look at ways of reducing the overall size of the proposed gravel wetlands by using alternatives to storing stormwater for the proposed development, such as underground storage beneath the proposed parking lots or buildings on-site.

Impact 2 is to remove an existing, isolated wetland and associated buffer totaling 4,492 square feet that is located outside of the PMA, for the siting of a one-story warehouse, with associated parking, and circulation on Parcel 1. The applicant has not adequately demonstrated how impacting this wetland is unavoidable, or how impacts cannot be minimized in their SOJ. The only argument is to say that it is necessary to fit the proposed building footprint, associated circulation, and parking lot within this part of the site. Therefore, staff cannot recommend approval of this impact, as such impacts to REFs would not normally be granted, unless sufficient evidence has been presented that no reasonable alternatives exist to minimize impacts to the isolated wetland and its respective buffer.

Staff find that the REFs have been preserved and/or restored in a natural state to the fullest extent possible, in accordance with the requirements of Sections 27-6808 and 27-4300 of the Zoning Ordinance, for Impact 1, but recommend disapproval of Impact 2.

(2) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay (CBCAO) Zone, a special exception shall not be granted:

(A) Where the existing lot coverage in the CBCAO exceeds that allowed by this Subtitle, or

This criterion is not applicable, as the proposed development is not located within the Chesapeake Bay Critical Area Overlay (CBCAO) Zone.

- (B) Granting the special exception would result in a net increase in the existing lot coverage in the CBCAO.**

This criterion is not applicable, as the proposed development is not located within the CBCAO Zone.

B. Special Exception General Required Findings—Section 27-5401 of the Zoning Ordinance provides the following applicable findings:

(a) Required Findings

In addition to the required findings for the approval of a special exception specified in Section 27-3604(e), Required Findings, all special exception applications shall comply with Subsections (b) and (c), below, and all regulations applicable to the proposed use(s) as specified in Section 27-5402, Additional Requirements for Specific Special Exception Uses.

The subject application demonstrates conformance with the subsections regarding setbacks, landscaping, buffering, and screening as analyzed below.

(b) Setbacks

All setbacks shall be measured from the boundary line of the land for which the special exception is requested or approved, regardless of whether this boundary line is a lot, property, street, or other line. This Section applies to all setback requirements of this Subtitle which are specifically applicable to the special exception use.

The submitted site plan shows all building setbacks are measured from the boundary line of the requested SPE.

(c) Landscaping, Buffering, and Screening

(1) All landscaping required for a special exception, including any amendments to landscaping, buffering, and screening requirements which may be proposed by the applicant, shall be approved at the same time the special exception is approved. A special exception shall comply with the Landscape Manual through the approval of a landscape plan. The District Council may require additional landscaping, screening, or buffering if it determines that the amount required by the Landscape Manual is insufficient to adequately protect adjacent uses.

(2) Amendments to landscaping, buffering, and screening required in an approved special exception shall be made in accordance with Section 27-3604(i), Changes to Approved Special Exceptions: Minor Changes.

The subject application does not request any amendments to the landscaping, buffering, and screening requirements. The proposed development has been evaluated according to the requirements of the 2018 *Prince George's County Landscape Manual* (Landscape Manual).

C. Development Standards—Section 27-6100 of the Zoning Ordinance provides the following applicable development standards:

The SPE is consistent with the applicable standards in Part 27-6, Development Standards, as described in the applicant's SOJ, incorporated herein by reference. The following discussion is offered:

(a) Section 27-6200 Roadway Access, Mobility, and Circulation

The SPE is in general conformance with the applicable standards in Section 27-6200 of the Zoning Ordinance. The site proposes two separate distribution warehouses that have their own entrances. The western development fronts Muirkirk Road, a major collector roadway, and proposes two access points. The eastern development has frontage along Muirkirk Road and Konterra Drive, which is an arterial roadway. This building proposes one access point from Muirkirk Road and one access from Konterra Drive. However, the access from Konterra drive would not meet the requirements of Section 27-6206(d) of the Zoning Ordinance, which limits access along arterial and collector streets. As a result, staff have added a condition below for limiting access.

The SPE demonstrates sufficient vehicular, pedestrian, and bicycle access and circulation. The site's frontage along Konterra Drive already has an existing bicycle lane and sidewalk. Muirkirk Road is a planned bicycle lane, per the 2009 *Approved Countywide Master Plan of Transportation* and master plan. Bicycle parking is also shown on the site plan to accommodate 34 bicycle spaces. A condition has been included herein to provide a bicycle lane along the property's Muirkirk Road frontage.

(b) Section 27-6300 Off-Street Parking and Loading

In accordance with the parking and loading regulations contained in Section 27-6300 of the Zoning Ordinance, a distribution warehouse requires 1.0 spaces per 1,000 square feet of gross floor area (GFA). The development on Parcel 1 has 122,200 square feet of GFA, and thus, would require 123 parking spaces. The applicant proposes 123 parking spaces. As such, a total of five handicap spaces are also required and six are provided. The development on Parcel 2 has 147,000 square feet of GFA, and thus, would require 147 parking spaces. The applicant is providing 213 parking spaces. The applicant also addresses the over-parking in the SOJ, stating that additional parking is necessary to accommodate both employee vehicles and delivery vans. Staff agree with this assessment. The handicap requirement is seven spaces, however, the SPE only shows four. A condition has been included herein to address this shortfall.

Loading spaces for warehouse uses are calculated as one space up to 10,000 square feet, plus an additional space for each additional 40,000 square feet or major fraction thereof. Parcel 1 would require four loading spaces. A total of 32 spaces are provided for Parcel 1. Parcel 2 would require five loading spaces. A total of 38 spaces are provided. All loading spaces meet the minimum required 12-foot by 45-foot dimension.

(c) Section 27-6400 Open Space Set-Asides

The open space required for industrial uses in a nonresidential base zone is five percent. Open space is being satisfied by existing woodland that is not being disturbed.

(d) Section 27-6500 Landscaping

This SPE is in conformance with the applicable standards of the Landscape Manual. Specifically, Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; and Section 4.7, Buffering Incompatible Uses, are shown on the landscape plan.

(e) Section 27-6600 Fences and Walls

No fences or walls are associated with this SPE.

(f) Section 27-6700 Exterior Lighting

The SPE application included a photometric plan demonstrating conformance with this standard. Light-level measurements at the property line are shown to be negligible. All exterior luminaries, including security lights, are full cut-off fixtures that are directed downward.

(g) Section 27-6800 Environmental Protection and Noise Controls

The site will be governed by a SWM concept plan, if approved. This plan, when implemented, will result in a decrease in pollutants and run-off from storm and non-storm events currently entering the master plan area's waterways and wetlands. An approved SWM Concept Plan (37756-2022-00) was submitted with the SPE, which shows the use of 12 micro-bioretenment facilities, 3 bio swales, and 3 submerged gravel wetlands. The concept plan was approved by DPIE on July 11, 2023, and expires on July 11, 2026. The layout of the SWM facilities shown on the concept plan is inconsistent with the layout shown on the SPE site plan and the TCP2. The concept plan covers a slightly larger area than the other plans, with additional parking located in the northeast portion of the property. The proposed maintenance accessway and associated grading to access each of the gravel wetland facilities are currently not shown on the plan, even though the update to the layout was requested to be shown at the time of the Subdivision and Development Review Committee meeting. Prior to certification of the SPE, a revised approved SWM concept plan from DPIE that is consistent with the layout of the SPE site plan and the TCP2 must be submitted.

Noise controls and adequacy will be evaluated at the time of PPS, but it is anticipated the level of noise generated from the proposed use will be minimal.

(h) Section 27-61100 Industrial Form and Design Standards

The SPE is in conformance with the applicable standards in Section 27-61100 of the Zoning Ordinance, for distribution warehouses, regarding the building entrance, building façade materials, and the location of loading areas and off-street parking. However, the building façade articulation and roof line variation, as shown on the architectural elevations, do not meet the standards. A condition has been included herein to address this deficiency.

(i) Section 27-61200 Neighborhood Compatibility Standards

The SPE is in conformance with the applicable standards in Section 27-61200 of the Zoning Ordinance, including building height and setbacks, open space, and locations/design of other site features. The site plan and architectural plans demonstrate that the proposed distribution warehouses meet the various dimensional standards for the IE Zone.

(j) Section 27-61500 Signage

The applicant proposes two monument signs. One at each entrance to the development along Muirkirk Road. The proposed monument signs meet the requirements of this section.

IV. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE 2018 PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL

The proposed development is subject to the requirements of the Landscape Manual. Specifically, conformance is required for Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Interior Planting for Parking; Section 4.7, Buffering Incompatible Uses, and Section 4.9, Sustainable Landscaping Requirements. Staff find that the proposed landscape plan meets these requirements.

V. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE 2010 PRINCE GEORGE'S COUNTY WOODLAND AND WILDLIFE HABITAT CONSERVATION ORDINANCE

Section 27-6803 of the Zoning Ordinance requires that this property be 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 and is not associated with a previously approved tree conservation plan. TCP2-032-2023 was submitted with the SPE application.

Specimen Trees

The applicant has requested a variance for the removal of 21 specimen trees. The LOJ requests the removal of 21 specimen trees identified as Specimen Trees 1–3, 7–12, and 17 through 28. The condition of trees proposed for removal ranges from poor to good. The TCP2 shows the location of the trees proposed for removal. These specimen trees are proposed for removal for the development of the site, roadways, utilities, SWM, and associated infrastructure.

Evaluation

Staff support the removal of 21 specimen trees requested by the applicant, based on the findings below. Section 25-119(d) of the County Code contains six required findings [text in **bold**] to be made before a variance from the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below:

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

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the 21 specimen trees located on-site. Those “special conditions” relate to the specimen trees themselves, such as their size, condition, species, and on-site location.

The applicant requests the removal of the 21 specimen trees for the proposed widening of roadways, building footprints, SWM, parking, circulation, and grading. The species proposed for removal are various oak species, American elm, tulip poplar, American basswood, red maple, eastern red cedar, and silver maple. The condition ratings of these trees range from poor to good, with most classified in good condition. The trees have poor to good construction tolerances; however, all species of the included specimen trees have limiting factors for their construction tolerance, specifically if significant impacts are proposed to the critical root zone. These trees are located throughout the site.

Staff find that Specimen Trees 1–3, 7–12, and 17–28 are somewhat dispersed yet integral to a developable portion of the site, the widening of Muirkirk Road, and for construction of SWM facilities to detain, and safely convey stormwater off-site.

Retention of these trees and protection of their respective critical root zones would have a considerable impact on the proposed development by creating challenges for building siting, the required expansion of Muirkirk Road, and adequate circulation, and infrastructure through portions of the site.

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

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas. All variance

applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the Environmental Technical Manual for site-specific conditions. Specimen trees grow to such a large size because they have been left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all somewhat unique for each site.

Based on the location and species of the specimen trees proposed for removal, retaining the trees, and avoiding disturbance to the critical root zone of Specimen Trees 1–3, 7–12, and 17–28 would have a considerable impact on the development potential of the property. If similar trees were encountered on other sites, they would be evaluated under the same criteria. These 21 specimen trees requested for removal are located within the developable parts of the site.

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

Not granting the variance to remove Specimen Trees 1–3, 7–12, and 17–28 would prevent the project from being developed in a functional and efficient manner. This is not a special privilege that would be denied to other applicants. If other similar developments featured REFs and specimen trees in similar conditions and locations, they would be given the same considerations during the review of the required variance application. Other applicants with similar circumstances would receive the same recommendation.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The location of the trees and other natural features throughout the property is based on natural, or intentional circumstances that long predate the applicant's interest in developing this site. In addition, to date, the applicant has not undertaken any construction on the site that would cause the need for the removal of the specimen trees with the proposed development.

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

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

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

Requirements regarding the SWM concept will be reviewed and approved by DPIE. Erosion and sediment control requirements are reviewed and approved by the Prince George's Soil Conservation District. Both SWM, sediment, and erosion control requirements are to be met in conformance with state and local laws to ensure that the quality of water leaving the site meets the state's standards. State standards are set to ensure that no degradation occurs and granting this variance will require adherence to these standards.

Conclusion on the Variance Request

The required findings of Section 25-119(d) were adequately addressed for the removal of Specimen Trees 1–3, 7–12, and 17–28. Staff recommend that the Prince George's County Planning Board approve the requested variance for the removal of these 21 specimen trees for the construction of a warehouse distribution development. As previously discussed, the woodland conservation worksheet, as shown on the TCP2, is incorrectly calculated. Conditions have been included below.

VI. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE PRINCE GEORGE'S COUNTY TREE CANOPY COVERAGE ORDINANCE

The site is subject to the requirements of the Prince George's County Tree Canopy Coverage Ordinance and must provide a minimum of 10 percent of the limits of disturbance to be covered in tree canopy, due to the site being redeveloped and zoned IE. A tree canopy coverage (TCC) schedule was provided, demonstrating the required amount of TCC is 104,500 square feet. The provided TCC is 134,165 square feet, which exceeds the minimum requirement.

VII. REFERRAL COMMENTS

The subject application was referred to the concerned agencies and divisions. The referral comments are incorporated herein by reference, and major findings are summarized as follows:

- a. **Community Planning**—In a memorandum dated September 29, 2023 (Green to Price), the Community Planning Division found that, pursuant to Section 27-3604(e)(1)(C), Special Exception, of the Zoning Ordinance, this SPE application for the development of two distribution warehouses is consistent with Plan 2035, and conforms with the relevant goals, policies, and strategies of the master plan, for the subject property and its surrounding area.
- b. **Transportation Planning**—In a memorandum dated October 4, 2023 (Ryan to Price), the Transportation Planning Section determined that the proposed plan is acceptable, with conditions.
- c. **Environmental Planning**—In a memorandum dated October 2, 2023 (Juba to Price), the Environmental Planning Section provided an analysis of the subject application.

Approved NRI-191-2022-01 was submitted with the application. The site contains REFs that include wetlands, streams, and their associated buffers.

TCP2-032-2023 was submitted with this SPE application. Analysis is provided in the referral and Part III(F) of this technical staff report. Recommended conditions have been added below to correct the TCP2 worksheet.

The required findings of Section 25-119(d) were adequately addressed for the removal of Specimen Trees 1–3, 7–12, and 17–28. Analysis is provided in the referral and Part V of this technical staff report. Staff recommend that the Planning Board approve the requested variance for the removal of these 21 specimen trees, for the construction of a warehouse distribution development.

- d. **Subdivision**—In a memorandum dated September 28, 2023 (Heath to Price), the Subdivision Section noted that a new PPS will be required for the proposed development, for the resubdivision of the property to two parcels. The approval of a certificate of adequacy (ADQ) will be required at the time of PPS, in accordance with Section 24-4503(a)(2) of the Prince George’s County Subdivision Regulations. Please note that the ADQ is a separate application from the PPS and must be accepted prior to or along with the PPS.
- e. **Historic Preservation**—In a memorandum dated September 18, 2023 (Stabler to Price), the Historic Preservation Section noted that there are no historic sites or resources located on or adjacent to the subject property. A Phase I archeology survey is not recommended.
- f. **Permit Review**—In a memorandum dated September 30, 2023 (Bartlett to Price), the Permit Review Section provided nine technical comments, in which six have been included as conditions of approval prior to the certification of the SPE.
- g. **Prince George’s County Fire/EMS Department**—As of the writing of this technical staff report, the Fire/EMS Department did not offer any comments on this subject application.
- h. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated September 29, 2023 (Giles to Price), DPIE offered no objections to SPE-2022-005.
- i. **Washington Suburban Sanitary Commission (WSSC)**—As of the writing of this technical staff report, WSSC did not offer any comments on this subject application.
- j. **Prince George’s County Health Department**—As of the writing of this technical staff report, the Health Department did not offer any comments on this subject application.
- k. **Prince George’s County Department of Public Works and Transportation (DPW&T)**—In an email dated September 11, 2023 (Russel to Price), DPW&T offered two comments on the subject application, one of which has been incorporated into the conditions of approval prior to the certification of the SPE.

VIII. COMMUNITY FEEDBACK

As of the writing of this technical staff report, no correspondence has been received from the surrounding community.

IX. RECOMMENDATION

Based on the applicant's statement of justification, the analysis contained in the technical staff report, associated referrals, and materials in the record, the applicant has demonstrated conformance with the required special exception findings, as set forth in Section 27-3604(e) (in general) of the Prince George's County Zoning Ordinance. Staff find that the proposed application satisfies the requirements for approval, and that the application will be in conformance with the Zoning Ordinance requirements.

Therefore, staff recommend APPROVAL of Special Exception SPE-2022-005, and Type 2 Tree Conservation Plan TCP2-032-2023, for Muirkirk Warehouses, subject to the following conditions:

1. Prior to certification of the special exception site plan, the following revisions shall be made, or information shall be provided:
 - a. Provide limit of disturbance on the site plan and landscape plan and add to the legend.
 - b. For both warehouse buildings, show the square footage as gross floor area and provide the building height in feet.
 - c. Show the width of the handicapped parking space access aisles on the plan. Label the handicapped parking spaces with "HC" or the wheelchair icon and indicate which spaces are "Van" accessible.
 - d. Show the correct amount of handicapped parking spaces for each parcel.
 - e. Make the building dimensions on the plan darker.
 - f. Clearly identify the top and bottom elevations of any walls/retaining walls on the site plan and landscape plan.
 - g. Include the recording references for existing lots and parcels in the general notes.
 - h. Label right-of-way dedication along Muirkirk Road.
 - i. Show a bicycle lane and sidewalk along the subject property's frontage of Muirkirk Road and Konterra Drive.
 - j. Revise the elevations to show and label all building entrance doors.
 - k. Revise the layout to show no proposed access along Konterra Drive.

- l. Revise the architecture to conform to Section 27-61102 of the Prince George's County Zoning Ordinance.
2. Prior to the certification of the Type 2 tree conservation plan (TCP2), the plan shall meet all the requirements of Subtitle 25, Division 2 of the Prince George's County Code, and the Environmental Technical Manual, and shall be revised as follows:
 - a. Correct errors in the TCP2 worksheet to accurately reflect the woodland conservation requirement and how the requirement is being met.
 - b. Add additional afforestation/reforestation on-site through expansion of Reforestation Area B, and by adding reforestation to the southern edge of Preservation Area C to the fullest extent practicable. Adjust all planting schedules, as necessary.
 - c. The proposed maintenance accessway and associated grading to access each of the gravel wetland facilities must be shown on the TCP2.
 - d. Provide notes pertaining to invasive species, as well as an invasive species management plan.
3. Prior to the certification of the Type 2 tree conservation plan (TCP2) for this site, documents for the required woodland conservation easements shall be prepared and submitted to the Environmental Planning Section for review by the Office of Law, and submission to the Office of Land Records for recordation. The following note shall be added to the standard TCP2 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 the issuance of any permits that impact wetlands, wetland buffers, streams, or waters of the United States, the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions were complied with, and associated mitigation plans.
5. Prior to certification of the special exception (SPE) and Type 2 tree conservation plan (TCP2), a revised approved concept grading, erosion and sediment control plan from Prince George's County Soil Conservation District that is consistent with the layout of the SPE site plan and the TCP2 must be submitted.
6. Prior to certification of the special exception (SPE) and Type 2 tree conservation plan (TCP2), a revised approved stormwater management concept plan from the Prince George's County Department of Permitting, Inspections and Enforcement that is consistent with the layout of the SPE site plan and the TCP2 must be submitted.