



PGCPB No. 13-59

File No. 4-12007

RESOLUTION

WHEREAS, Brandywine Investment Associates, LLP is the owner of a 44.33-acre parcel of land known as Tax Map 154 in Grid F-3 and is also known as Outlot 2, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned Local Activity Center (L-A-C); and

WHEREAS, on January 17, 2013, Brandywine Investment Associates, LLP filed an application for approval of a Preliminary Plan of Subdivision for 191 lots and 24 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-12007 for Brandywine Village, Lots 1-191, Parcels 1-6, and Parcels A-S, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on May 30, 2013, for its review and action in accordance with the Land Use Article of the Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on May 30, 2013, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type 1 Tree Conservation Plan (TCP1-009-12/01), and further APPROVED Preliminary Plan of Subdivision 4-12007, Brandywine Village, Lots 1-191, Parcels 1-6, and Parcels A-S, including Variations from Section 24-128(b)(7)(A) and Section 24-121(a)(3) for 191 lots and 24 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following corrections shall be made:
 - a. Revise Note 1 to include Record Plat VJ 186-64 for Outlot 2.
 - b. Submit a copy of a valid and approved stormwater management conceptual plan and letter and revise Note 17 with the correct stormwater management conceptual plan number and approval date.
 - c. Revise the plan to show conformance to and list all relevant design standards contained in Comprehensive Design Plan CDP-1201.
 - d. Provide outdoor recreational amenities in one centrally located area by relocating Lots 51-56 (Applicant Exhibit A), and provide a note that recreational amenities will be in

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this location, as determined at the time of specific design plan. Extend Parcel A to include the recreational amenities at area of Lots 51-56.

- e. Remove the parking calculations tables.
 - f. Add a note regarding the AT&T easement including Liber 795 Folio 59 for the easement.
 - g. Provide a note that the sidewalk will be relocated outside of the AT&T easement at the time of specific design plan, to the extent that it shall not be co-located parallel within the easement.
 - h. Add a note that, subject to SHA approval a single point of access may be permitted on US 301 pursuant to approval of variation request from Section 24-121(a)(3). The exact location and design of the access point shall be determined at the time of SDP for the commercial section but shall be located within the area of proposed Parcel 3. Access shall be subject to approval of an access permit by the State Highway Administration and any memorandum of understanding with SHA that defines the terms and conditions of this temporary access point.
 - i. Revise the parcel table to indicate Parcels 1-6 are "commercial/retail."
 - j. Renumber to include a Parcel B.
 - k. Delete "Parcel B" nomenclature on Parcel 1 on Sheet 1 of 3.
 - l. Revise Note 34 to add a statement that the easement shall provide future access to the north, ultimately to A-55.
 - m. Provide an arrow at the northern property line of Parcel 1 and label the arrow as "future connection to A-55."
 - n. Revise Note 16 to state "243,048-square-foot retail, office, medical office use proposed."
2. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan (TCP1) shall be revised as follows:
- a. All clearing of the primary management area (PMA) on the east side of the stream valley on Parcel 4 shall be eliminated, except for approved stormwater management outfall.
 - b. "Wood preserved-not credited" must be revised to "woodland retained-not credited" on all legends on plan sheets.

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- c. Include the graphic for off-site woodland clearing in the legend, and include any off-site clearing in the right-of-way to the woodland conservation worksheet and the woodland conservation summary table.
 - d. Revise Note 9 to indicate that Robert Crain Highway (US 301) is classified as a freeway and A-55 is classified as an arterial.
 - e. Revise Note 10 to complete the note by adding the phrase "effective September 1, 2010."
 - f. Show the disposition of specimen trees in the specimen tree table.
 - g. Correct the TCP1 number format in the approval block, include an approval block on all plan sheets, and add previous approvals to the approval block.
 - h. Add a woodland conservation summary table on each sheet.
 - i. Revise the plan to show all single family attached lots to be located a minimum of ten feet from the primary management area (PMA) delineation in order to allow access and maintenance to the rear of townhouse lots adjacent to the PMA.
 - j. Revise the plan to show all woodland conservation areas setback a minimum of ten feet from all townhouse lot lines in order to allow access and maintenance to the rear of all townhouse lots.
 - k. Revise the woodland conservation worksheet as necessary to reflect all revisions required above.
 - l. Have the revised plan signed and dated by the qualified professional who prepared it.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan 15822-2008-01 and any subsequent revisions.
 4. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-009-12/01). The following note shall be placed on the final plat of subdivision:

"This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-009-12/01), or as modified by the Type 2 Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance. This property is subject to the notification provisions of County Council Bill CB-60-2005. Copies of all approved Tree Conservation Plans for the subject

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property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."

5. The following note shall be placed on the final plat:

"Prior to signature approval of a TCP2 for this property, pursuant to Section 25-122(d)(1)(B), all woodland preserved, planted or regenerated on-site shall be placed in a woodland conservation easement recorded in land records and the liber/folio of the easement shall be indicated in a note on the TCP2 plan."

6. Prior to signature approval of the preliminary plan of subdivision, the preliminary plan and Type 1 tree conservation plan (TCP1) shall be revised to show that primary management area impacts related to the eastern stormwater management pond on the site shall be limited to those necessary for the stormwater management outfall.

7. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area, except for approved impacts, and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

8. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams, or waters of the U.S., the applicant shall provide the Environmental Planning Section with copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

9. Prior to signature approval of the preliminary plan of subdivision, the preliminary plan and Type 1 tree conservation plan (TCP1) shall be revised to show the location of all unmitigated noise contours 65 dBA Ldn or greater adjacent to roads classified as arterials or higher at both ground level and upper levels.

10. Prior to approval of the specific design plan, the proposed structural mitigation and final noise mitigation shall be adequately addressed to the satisfaction of the Planning Board, to reduce interior noise levels to 45 dBA Ldn or less.

11. Prior to the approval of building permits for lots containing residential units falling with the 65 dBA Ldn noise contour at the ground or upper level, certification by a professional engineer with competency in acoustical analysis shall be submitted to The Maryland-National Capital Park and Planning Commission (M-NCPPC) as part of the building permit package. The certificate

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shall verify that noise mitigation methods have been incorporated in the architectural plans to reduce interior noise levels to 45 dBA Ldn or less.

12. All specific design plans (SDPs) for the subject property shall demonstrate the use of full cut-off optics to ensure that off-site light intrusion into residential and environmentally-sensitive areas is minimized. At the time of SDP, details of all lighting fixtures shall be submitted for review along with certification that the proposed fixtures are full cut-off optics and a photometric plan showing proposed light levels. The following note shall be placed on all future SDPs:

“All lighting shall use full cut-off optics and be directed downward to reduce glare and light spill-over.”
13. Prior to approval of the specific design plan, private on-site recreational facilities for Parcel A shall be reviewed for adequacy and proper siting. An appropriate mix of recreational facilities shall be specified at that time and triggers for their construction determined.
14. Prior to approval of final plats, the applicant and the applicant's heirs, successors, and/or assigns shall submit three original executed recreational facilities agreements (RFA) to The Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George's County Planning Department, Development Review Division (DRD) for the construction of private recreational facilities on-site. Upon approval by DRD, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
15. Prior to approval of any residential building permits, the applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee, in an amount to be determined by the DRD Division, for the construction of private on-site recreational facilities.
16. Prior to approval of any residential building permits, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association (HOA) has been established and that common areas have been conveyed to the HOA (Parcels A and C through S). Land to be conveyed shall be subject to the following:
 - a. A copy of an unrecorded, special warranty deed for the property to be conveyed shall be submitted to The Maryland-National Park and Planning Commission (M-NCPPC) Planning Department, Development Review Division, Subdivision Review Section along with the final plat.
 - b. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - c. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse, or similar waste matter.

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- d. Any disturbance of land to be conveyed to a HOA shall be in accordance with an approved specific design plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee may be required to warrant restoration, repair, or improvements required by the approval process.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to an HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division (M-NCPPC) prior to issuance of grading or building permits in accordance with the approved specific design plan.
 - f. Temporary or permanent use of land to be conveyed to a HOA for stormwater management shall be approved by the Development Review Division (M-NCPPC) in accordance with the approved specific design plan.
 - g. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
17. An automatic fire suppression system shall be provided in all new buildings proposed in this subdivision unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.
18. Prior to issuance of building permits, the applicant and the applicant's heirs, successors, and/or assigns shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and constructed through the formation of a road club that will include the applicant, the Montgomery Wards Brandywine Distribution Center, the Brandywine Commerce Center, the Mattawoman-Brandywine Commerce Center, the Brandywine Business Park, the Brandywine/301 Industrial Park, the Hampton CDZ, and other property owners in the area designated as Employment Area "C" in the Subregion V Master Plan, as well as any properties along US 301/MD 5 between Timothy Branch (the intersection of US 301 and MD 5 in Prince George's County) and Mattawoman Creek, and any other properties for which participation is deemed necessary by the Planning Board.
- a. For office and retail development on the subject property, the applicant's sole funding responsibility toward the construction of these off-site transportation improvements shall be the payment of the following:
 - (1) A fee calculated as \$1.24 per gross-square-foot of space X (the most recent Engineering News-Record (ENR) Construction Cost Index four-quarter average

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available at the time of payment) / (the ENR Construction Cost Index for first quarter, 1993).

- b. For residential development on the subject property, the applicant's sole funding responsibility toward the construction of these off-site transportation improvements shall be the payment of the following:
 - (1) A fee calculated as \$1,338 per dwelling unit X (the most recent Engineering News-Record (ENR) Construction Cost Index four-quarter average available at the time of payment) / (the ENR Construction Cost Index for first quarter, 1993).
- c. Payment is to be made in trust to the road club escrow agent and shall be due on a pro rata basis.
- d. The off-site transportation improvements to be constructed are set forth below. Construction of these improvements shall occur in the numerical sequence in which they appear. Each improvement shall be constructed if and only if sufficient funds for engineering, full design, and construction have been deposited into the road club escrow account by road club members or said funds have been provided by public agencies. The off-site transportation improvements shall include:
 - (1) Widen Robert Crain Highway/Branch Avenue US 301/MD 5 from a four-lane road to a six-lane road beginning at Timothy Branch (north of Cedarville Road) and extending northerly to the US 301/MD 5 interchange (at Timothy Branch). The construction shall be in accordance with presently approved State Highway Administration plans.
 - (2) Install a traffic signal at the A-63/Cedarville Road intersection, provided said signal is deemed warranted by the Department of Public Works and Transportation.
 - (3) Make minor widening/striping improvements to the US 301/MD 5 interchange ramps.
 - (4) Widen Robert Crain Highway (US 301) from a four-lane road to a six-lane road beginning at the Timothy Branch interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of Brandywine Road (MD 381).
 - (5) Reconstruct the traffic signal at Robert Crain Highway /Brandywine Road (US 301/MD 381).

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- (6) Install a traffic signal at the MD 381/A-63 intersection, provided said signal is deemed warranted by the Department of Public Works and Transportation and the State Highway Administration.
 - (7) Provide a grade separation at the point the spine road crosses US 301 northeast of Timothy Branch.
 - (8) Reconstruct the traffic signal at Branch Avenue/Brandywine Road (MD 5/MD 381).
 - (9) Construction of an interchange in the area of Robert Crain Highway/Branch Avenue (US 301/MD 5) and Cedarville/McKendree Roads.
 - (10) Construction of an interchange in the area of Branch Avenue (MD 5) and A-63 north of Timothy Branch.
 - (11) Construction of A-63 as a six-lane arterial roadway (where off-site) between the US 301/MD 5/Cedarville Rd./McKendree Road intersection and MD 5 north of Timothy Branch.
 - (12) Widen US 301/MD 5 from a six-lane road to an eight-lane road beginning at the Timothy Branch interchange (US 301/MD 5) and extending southerly to Mattawoman Creek.
 - (13) Widen MD 5 from a four-lane road to a six-lane road beginning at the Timothy Branch interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of the planned intersection with A-63.
19. Total development of the overall site shall be limited to uses that would generate no more than 659 AM and 892 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
 20. The specific design plan shall demonstrate that access to the residential portion of the site shall utilize a full access at the median break along General Lafayette Boulevard. All other access points to the residential portion shall be right-in/right-out access with no median break.
 21. Prior to the issuance of any building permits within the commercial portion of the subject property, the following road improvements along Chadds Ford Drive shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

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- a. Provision of two westbound lanes (by restriping, if possible) along Chadds Ford Drive between US 301/MD 5 and General Lafayette Boulevard, unless modified by the Department of Public Works and Transportation (DPW&T).
 - b. Provision of exclusive left-turn and right-turn lanes on the commercial access approach to Chadds Ford Drive.
 - c. The applicant shall be responsible for any additional turn lanes or signage at the commercial access roadway intersection with Chadds Ford Drive that are needed to ensure safe access per DPW&T standards.
22. Prior to approval of the specific design plan for Parcels 1-6, the typical section of the commercial roadway shall be re-reviewed to consider a center left-turn lane at key driveway locations along its length. The typical section should be modified to provide two lanes approaching Chadds Ford Drive to lessen the opportunity for excessive queuing at the intersection. These changes may require an increase in the proposed 26-foot-wide pavement section of the internal access easement (Section 24-128(b)(9)).
23. If approved by SHA, the final plat shall note that a single temporary access point along the frontage of Robert Crain Highway/Branch Avenue (US 301/MD 5) within the area of proposed Parcel 3 in accordance with an approved SDP. This temporary access may be governed by a memorandum of understanding (MOU) with SHA that defines the terms and conditions of the access. Unless required to be closed earlier by SHA, the access shall be closed following the connection of C-502 to A-55 (and a planned interchange at US 301/MD 5 and A-55) on the north and to McKendree Road to the south. All closures, modifications and removals shall be at the sole cost of the applicant, the applicant's heirs, successors and/or assigns.
24. The applicant and the applicant's heirs, successors, and/or assigns shall provide the following:
- a. Modify the existing standard sidewalk along the subject site's frontage of General Lafayette Boulevard to an eight-foot-wide, concrete sidewalk, unless modified by the Department of Public Works and Transportation (DPW&T).
 - b. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.
 - c. Provide striping for a designated crosswalk across General Lafayette Boulevard at Chadds Ford Drive at the location of the existing curb cuts and Americans with Disabilities Act (ADA) ramps.
25. Prior to approval of the specific design plan, the following additional specific site issues shall be evaluated:

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- a. The connector trail from Parcel A, HOA parcel, to the commercial pods shall be evaluated for the design, layout, use easement for trail, and trigger for the construction and bonding of the trail.
 - b. The need for additional crosswalk or walkway striping through the commercial area parking lots shall be evaluated and determined. However, it appears that adequate sidewalk access is provided from the trail connection to the proposed L-A-C building frontages.
 - c. Prior to approval of the final plat and in accordance with the specific design plan, the necessary trail access easement shall be recorded among the land records of Prince George's County and the liber and folio noted.
26. Prior to approval of the final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assigns shall pay a fee-in-lieu of parkland dedication for the residential portion of the site.
27. Prior to approval of the final plat, an executed private access easement agreement for Parcels 1-6 shall be submitted and approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC). The easement will provide for future users as properties to the north develop. The access road shall serve as a service road for the lots fronting on US 301. The access easement, authorized pursuant to Section 24-128(b)(9) of the Subdivision Regulations, shall set forth the rights, responsibilities, and liabilities of the lot owners. The easement document shall include utility access and be recorded in the land records of Prince George's County, and the liber and folio reflected on the record plat.
28. Prior to approval of the final plat, the following note shall be placed on the plat:
- "At the time of final plat, the following plat lies within the JLUS Interim Land Use Controls area as established by Subtitle 27, Part 18 (CB-3-2012)."
29. In the event that any portion of the existing right-of-way for US 301/MD 5 which was previously dedicated to public use is vacated prior to final plat, the applicant will include such vacated area within the adjoining lot at the time of final plat.
30. All site plans, plats, and permit plans shall label the point of access to US 301/MD 5 as temporary, if approved by SHA.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.

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- 2. **Setting**—The subject property is located in the northwest quadrant of the intersection of Robert Crain Highway (US 301) and Chadds Ford Drive, east of General Lafayette Boulevard in Brandywine. The site is bounded to the north by undeveloped land in the Rural Residential (R-R) Zone and a master plan arterial roadway, A-55. To the east of the site is US 301 and east across US 301 is the Brandywine Shopping Center in the Commercial Shopping Center (C-S-C) Zone. South of the site is Chadds Ford Drive and south across Chadds Ford Drive are properties in the Residential Medium Development (R-M) Zone. West of the site is Lafayette Boulevard and west across Lafayette Boulevard are subdivisions in the R-M Zone, developed with townhouses and small-lot single-family detached dwellings.

- 3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	L-A-C	L-A-C
Use(s)	Undeveloped and wood	Residential (191 townhouse units) Commercial (243,048 sq. ft.)
Acreage	44.33	44.33
Lots	0	191
Outlots	1	0
Parcels	0	24
Dwelling Units	0	191
Public Safety	No	No
Variance	No	No
Variation	No	Yes
		24-121(a)(3) 24-128(b)(7)(A)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on February 1, 2013. The requested variation to Section 24-128(b)(7)(A) of the Subdivision Regulations, which requires that townhouse lots which are served by alleys shall front on a public street, was accepted on January 17, 2013, as discussed further in the Variation to Section 24-128(b)(7)(A) finding of this report, and was heard on February 1, 2013 at SDRC as required by Section 24-113(b). The requested variation to Section 24-121(a)(3) of the Subdivision Regulations for lots that are adjacent to an existing arterial road to be designed to have frontage and direct access onto an interior street or service road was accepted on April 23, 2013, as discussed further in the Variation to Section 24-121(a)(3) finding of this report, and was heard on May 10, 2013 at SDRC as required by Section 24-113(b) of the Subdivision Regulations.

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4. **Community Planning**—The 2002 *Prince George's County Approved General Plan* (General Plan) designates the subject property within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. Development within corridors should integrate a multimodal pedestrian-friendly transportation system with the desired development pattern and to plan and provide public facilities to support the development. This preliminary plan of subdivision (PPS) is consistent with the 2002 General Plan Development Pattern policies for centers in the Developed Tier by proposing a low -to moderate-density of residential and commercial development. Approval of this application does not violate the General Plan's growth goals for the year 2025, upon review of Prince George's County's current General Plan Growth Policy Update.

The subject site is located within the 1993 the *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A, 85B* (Subregion V Master Plan and SMA) and the master plan reclassified this property from the M-A-C Zone to the E-I-A Zone (46 acres). The master plan recommends a variety of land uses for the greater Brandywine Special Study Areas (BSSA): Employment-Office/Light Manufacturing/Business Park. For Brandywine Village, the master plan recommends employment land use. The 2009 Preliminary Subregion 5 Master Plan recommends commercial land use along MD 5/US 301 and medium-high residential land use along General Lafayette Boulevard. Development should be walkable to encourage non-vehicular access to a future transit stop or station identified on the east side of MD 5/US 301. Subsequently, the subject property was rezoned by the District Council to the L-A-C (Local Activity Center) Zone via approval of Basic Plans A-9997-C and A-9998-C, Chaddsford Center.

The site is located within the Joint Base Andrews (JBA) Interim Land Use Control (ILUC) area. The property is within Imaginary Surface C, establishing a height limit of 500 feet above the runway surface. The property is not in an accident potential zone, so no control on use or density is required. These categories will not impact the proposed development.

Plan Review

This 44-acre proposal was part of a larger project known as Brandywine Village, which encompasses approximately 277 acres of land that has been classified in a variety of comprehensive design zones (R-M, E-I-A, and L-A-C). For the subject property, the L-A-C Zone was approved, in large part, to increase the developer's flexibility to design a more integrated mix of residential and commercial, including office employment uses, as advocated by General Plan policies.

General Plan policy recommends diversifying the housing stock in the Developing Tier. The Chaddsford development, of which Brandywine Village was originally a part of, consists of townhouses and single-family detached dwellings. In approving the L-A-C Zone for this property, the importance of providing different housing types was stressed, and was addressed in the recommendations of CDP-1201.

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5. **Previous Approvals**— The subject property was originally part of a larger development known as Mattawoman, which consisted of a total land area of 277 acres. On November 29, 1977, the District Council adopted County Council Resolution CR-108-1977 for the entire 277-acre Mattawoman property, placing 212 acres in the Major Activity Center (M-A-C) Zone and 65 acres in the R-M Zone (A-8865). In 1987, a zoning map amendment was filed to rezone the 212-acre M-A-C-zoned portion, but it was unsuccessful. In 1992, another application (A-9878) was filed to rezone the 212 acres of M-A-C. The property, now referred to as Brandywine Village, was rezoned on September 14, 1993 by the *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A, 85B* (Subregion V Master Plan and SMA). Of the 212 acres, 46 acres were zoned Employment and Institutional Area (E-I-A), 16.4 acres were zoned Local Activity Center (L-A-C), and 149 acres were zoned R-M (via CR-60-1993). The property subject to this application was in the E-I-A Zone, although portions were placed in the R-M and L-A-C Zones based upon proposed road networks that were later revised. A CDP was approved in January 1993 for 65 acres in the R-M Zone for 316 dwelling units. This section was located on McKendree Road and retained the name of Brandywine Village, and is not adjacent to the subject property. On February 20, 1997, the Planning Board approved Preliminary Plan of Subdivision 4-96083 to dedicate Chadds Ford Drive and General Lafayette Boulevard (adjacent to the property) to public use. Comprehensive Design Plan CDP-0102 was approved by the Planning Board for the entire 212-acre parcel on October 11, 2001 (PGCPB Resolution No. 01 186). This CDP predominantly focused on the residential development in the R-M Zone and the remaining acreage, including the property included in this application, was intended for future development. On January 12, 2009, the District Council approved Zoning Map Amendments (Basic Plans) A-9996-C and A-9997-C to rezone the property, consisting of two distinct parts, from the E-I-A, R-M, and L-A-C Zones to the L-A-C Zone, subject to the conditions and considerations contained therein. With the approval of the two zoning map amendments covering the two parts of the subject site, previous approved zoning map amendments and CDPs are no longer valid. A CDP was filed in accordance with the requirements of the comprehensive design zones and is currently pending.

Zoning Map Amendment A-9996-C rezoned 20.28 acres of the site, the western portion that fronts on General Layette Boulevard, from R-M to L-A-C, and the resolution contains six conditions and two considerations. The following conditions in [bold] are applicable to this preliminary plan of subdivision (PPS):

1. **Land Use Types and Quantities:**

- 162-245 single-family attached and two-family attached (two-over-two) dwelling units**
- Open space**
- Homeowner Recreation facilities**
- Trails**

Single-family attached and two-family attached (tow-over-tow) dwelling units are based and conditioned on the following density breakdown:

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GROSS TRACT:	20.28 acres
FLOODPLAIN:	0.82 acre
NET TRACT AREA:	19.46 acres

Base Density 10.28 at 8.0 du/acre	162 units
Maximum Density 20.28 at 12.1 du/acre	245 units

The preliminary plan is proposing a mixed-use development of 191 townhouse dwellings and 243,048 square feet of retail, medical, and general office space. The applicant has requested two variances with the CDP application; a variance request from Section 27-480(b) for the minimum lot size and Section 27-515(b)(7)(Footnote 29) for the maximum percentage of townhouses. The proposed density and intensity of residential and commercial space with this PPS is consistent with proposed Comprehensive Design Plan CDP-1201 for the subject site.

2. **At the time of comprehensive design plan, the transportation planning staff shall make master plan transportation facility recommendations consistent with the Subregion V master plan.**

Conformance to Condition 2 was evaluated at the time of comprehensive design plan, and is further discussed in the Transportation finding.

3. **At the time of comprehensive design plan and preliminary plan of subdivision, the transportation planning staff shall review a traffic impact study as a means of making findings of the adequacy of transportation facilities. The traffic study shall, at a minimum, include the following as critical intersections:**
 - a. **US 301/MD 5 and Matapeake Business Drive/Clymer Drive (signalized)**
 - b. **US 301/MD 5 and Chadds Ford Drive (signalized)**
 - c. **US 301/MD 5 and Cedarville Road/McKendree Road (signalized)**
 - d. **Chadds Ford Drive and General Lafayette Boulevard (unsignalized)**
4. **Following the connection of C-502 to A-55 (and a planned partial interchange at US 301/MD 5 and A-55) on the north and to McKendree Road on the south, the applicant, the applicant's heirs, successors and/or assignees shall close the US 301/MD 5/Chadds Ford Drive at-grade intersection to traffic. Such closure shall include removal of the signal as**

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directed by SHA following closure of the intersection. All closures, modifications and removals shall be at the sole expense of the applicant, the applicant's heirs, successors and/or assignees.

- 5. Vehicular access from the eastern portion of the site to the property to the north is supported and shall be demonstrated at the time of specific design plan.**

Conformance to Conditions 3 through 5 is evaluated with this preliminary plan and is further discussed in the Transportation finding.

- 6. At time of comprehensive design plan ("CDP"), the applicant shall:**
 - a. Submit design standards that establish design and review parameters, including setbacks, lot coverage, and other bulk standard for development, standards for the materials and design of architecture, and standards for design of signage for the entire site.**
 - b. Provide an analysis of maximum density allowed per dwelling unit/acre and the proposed du/acre for the L-A-C Zone.**
 - c. Provide pedestrian connectivity to the proposed L-A-C Zone commercial area.**
 - d. Provide a valid stormwater management concept approval letter and plan.**

Conformance to Condition 6 was evaluated at the time of comprehensive design plan, and will further be reviewed with the specific design plan. An approved stormwater management (SWM) concept plan was submitted with the PPS, however the SWM plan expired as of May 4, 2013. Prior to signature approval of the PPS, the valid stormwater management concept plan should be submitted and should be in substantial conformance with the approved PPS.

Considerations:

- 1. The applicant, the applicant's heirs, successors and/or assignees shall designate all master plan trails, plus feeder connections to all development pods on the comprehensive design plan.**

Evaluation of Consideration 1 was reviewed at the time of comprehensive design plan, and is further discussed in the Trail finding.

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2. **If approved, at the time of CDP the plan should be modified to move access along Chadds Ford Drive westward to be consistent with the access shown on SDP-0519 for Brandywine Village. If placement of the access at that location is not possible due to environmental features by determination of the Environmental Planning Section, access to the eastern portion of the site should be achieved from C-502 (General Lafayette Boulevard) at a location determined to be of least environmental impact.**

Evaluation of Consideration 2 was reviewed at the time of comprehensive design plan, and is further discussed in the Transportation finding.

Zoning Map Amendment A-9997-C rezoned 24.05 acres of the site, the eastern portion that fronts on US 301, from E-I-A to L-A-C, and the resolution contains seven conditions and two considerations, The following conditions in [bold] are applicable to this preliminary plan of subdivision:

1. **Land Use Types and Quantities:**

**189,000 square feet of office space
14,657 square feet of retail commercial
Open space
Homeowner Recreation Facilities
Trails**

GROSS TRACT:	24.05 acres
FLOODPLAIN:	10.91 acres
NET TRACT AREA	13.14 acres

Base intensity of zone 24.05 acres at 0.16 FAR: 167,619 sq. ft.

Maximum intensity 24.05 acres at 0.31 FAR: 324,761 sq. ft.

The preliminary plan is proposing a mixed-use development of 191 townhouse dwellings and 243,048 square feet of retail, medical, and general office space. The proposed density and intensity of residential and commercial space with this PPS is consistent with proposed Comprehensive Design Plan CDP-1201 for the subject site.

2. **All commercial structures should be fully equipped with an automatic fire suppression system in accordance with National Fire Protection Association (NFPA) Standard 13.**

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This preliminary plan has been evaluated for fire and rescue and is discussed further in the Fire and Rescue finding of this report. A condition of an automatic fire suppression system is carried forward with this PPS to be implemented at the time of building permit.

- 3. At the time of CDP, the applicant shall:**
- a. Submit design standards that establish design and review parameters, including setbacks, lot coverage, and other bulk standard for development, standards for the materials and design of architecture, and standards for design of signage for the entire site.**
 - b. Provide an analysis of maximum density allowed per FAR and the proposed FAR for the L-A-C Zone.**
 - c. Provide pedestrian connectivity to the proposed L-A-C Zone residential area.**
 - d. Provide a valid stormwater management concept approval letter and plan.**

Conformance to Condition 3 was evaluated at the time of conceptual site plan, and will further be reviewed with the specific design plan. An approved SWM concept plan was submitted with the PPS, however, the SWM plan expired as of May 4, 2013. Prior to signature approval of the PPS, the valid stormwater management concept plan should be submitted and should be in substantial conformance with the approved PPS, and list all design standards applicable with the PPS and conform to the standards.

- 4. At the time of CDP, the transportation planning staff shall make master plan transportation facility recommendations consistent with the Subregion V master plan.**

Conformance to Condition 4 was evaluated at the time of comprehensive design plan, and is further discussed in the Transportation finding.

- 5. At the time of CDP and preliminary plan of subdivision, the transportation planning staff shall review a traffic impact study as a means of making findings of the adequacy of transportation facilities. The traffic study shall, at a minimum, include the following as critical intersections:**
- a. US 301/MD 5 and Matapeake Business Drive/Clymer Drive (signalized)**
 - b. US 301/MD 5 and Chadds Ford Drive (signalized)**

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- c. **US 301/MD 5 and Cedarville Road/McKendree Road (signalized)**
 - d. **Chadds Ford Drive and General Lafayette Boulevard (unsignalized)**
6. **Following the connection of C-502 to A-55 (and a planned partial interchange at US 301/MD 5 and A-55) on the north and to McKendree Road on the south, the applicant, the applicant's heirs, successors and/or assignees shall close the US 301/MD 5/Chadds Ford Drive at-grade intersection to traffic. Such closure shall include removal of the signal as directed by SHA following closure of the intersection. All closures, modifications, and removals shall be at the sole expense of the applicant, the applicant's heirs, successors and/or assignees.**
7. **Vehicular access from the eastern portion of the site to the property to the north is supported and shall be demonstrated at the time of specific design plan.**

Conformance to Conditions 5 through 7 is evaluated with this preliminary plan and is further discussed in the Transportation finding.

Considerations:

1. **The applicant, the applicant's heirs, successors and/or assignees, shall designate all master plan trails, plus feeder connections to all development pods on the comprehensive design plan.**

Evaluation of Consideration 1 was reviewed at the time of comprehensive design plan, and is further discussed in the Trail finding.

2. **If approved, at the time of CDP the plan should be modified to move access along Chadds Ford Drive westward to be consistent with the access shown on SDP-0519 for Brandywine Village. If placement of the access at that location is not possible due to environmental features by determination of the Environmental Planning Section, access to the eastern portion of the site should be achieved from C-502 (General Lafayette Boulevard) at a location determined to be of least environmental impact.**

Evaluation of Consideration 2 was reviewed at the time of comprehensive design plan, and is further discussed in the Transportation finding.

The PPS conforms to Zoning Map Amendments A-9996-C and A-9997-C and the Comprehensive Design Plan, CDP-1201. Pursuant to the Zoning Ordinance, Section 27-270 Order of Approval, CDP-1201 should be heard and approved by the Planning Board before the PPS. The

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Comprehensive Design Plan CDP-1201 was approved by the Planning Board before the PPS on May 30, 2013.

- 6. **Urban Design**—The 2010 *Prince George's County Landscape Manual* (Landscape Manual) and the Zoning Ordinance contain the site design guidelines and requirements that are applicable to the review of this preliminary plan of subdivision (PPS).

Conformance with the Zoning Ordinance

Section 27-478, Review Process: A three-phase plan review procedure is required in the comprehensive design zones. The initial phase is the review of a basic plan. The second phase is the review of a comprehensive design plan (CDP), and the third phase is the review of a specific design plan (SDP). This property has two previously approved zoning map amendment applications (basic plans) for the residential and commercial development.

Currently, CDP-1201 is pending with the Urban Design Section, Development Review Division, and has been scheduled to be heard by the Planning Board on May 30, 2013. Comprehensive Design Plan CDP-1201 must be acted upon prior to any action on Preliminary Plan of Subdivision 4-12007.

Section 27-496(a), Regulations: The approved densities on the subject site categorize it as a Neighborhood Center. The general standards for development within a Neighborhood Center are as follows:

	Neighborhood Center
(1) Minimum size of zone (except as provided in Section 27-498)	4 adjoining gross acres
(2) Base residential density	8 dwelling units per gross residential acre
(3) Maximum residential density	12.1 dwelling units per gross residential acre
(4) Base commercial intensity	0.16 FAR per gross commercial acre
(5) Maximum commercial density	0.31 FAR per gross commercial acre
(6) Maximum mixed retirement development density	8 units per gross acre

The subject site proposes a base residential density of 9.47 dwelling units per acre and a base commercial density of 0.21 floor area ratio (FAR), which are above the minimum Neighborhood Center densities, but are within the density ranges approved in the basic plans. Any densities above the minimum densities require the use of public benefit features. The use of public benefit features has been specified in the CDP application.

Additional regulations governing the development of this site must be established at the time of CDP approval. There are two variance applications included in CDP-1201, and the subject PPS is based upon their approval. One variance application is a request for 100 percent of townhouse (as

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required by Section 27-515(b)(7)(Footnote 29) of the Zoning Ordinance) in the development and the other requests a minimum lot size of the townhouse to be reduced to 1,500 square feet (as required by Section 27-480(b) of the Zoning Ordinance) from the standard 1,800 square feet. The two variances were approved with CDP-1201.

Conformance with Previous Approvals

The District Council provided the following applicable condition in its approval of Basic Plan A-9996-C for the residential portion of development as follows:

6. **At time of comprehensive design plan (“CDP”), the applicant shall:**
 - a. **Submit design standards that establish design and review parameters, including setbacks, lot coverage, and other bulk standard for development, standards for the materials and design of architecture, and standards for design of signage for the entire site.**
 - b. **Provide an analysis of maximum density allowed per dwelling unit/acre and the proposed du/acre for the L-A-C Zone.**

This condition was reviewed at the time of CDP approval.

The District Council provided the following applicable condition in its approval of Basic Plan A-9997-C for the commercial portion of the development as follows:

3. **At the time of CDP, the applicant shall:**
 - a. **Submit design standards that establish design and review parameters, including setbacks, lot coverage, and other bulk standard for development, standards for the materials and design of architecture, and standards for design of signage for the entire site.**
 - b. **Provide an analysis of maximum density allowed per FAR and the proposed FAR for the L-A-C Zone.**

This condition was reviewed at the time of CDP approval.

Comprehensive Design Plan CDP-1201 recommends the following development standards that will govern the proposed development:

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RESIDENTIAL USES

	Garage Townhouses	Non-Garage Townhouses
Minimum Lot size:	1,500 s.f.†	1,500 s.f.†
Minimum frontage at street R.O.W.:	20 feet	20 feet
Minimum frontage at Front B.R.L.	20 feet	20 feet
Maximum Lot Coverage	80%	60%
Minimum front setback from R.O.W.	13 feet*	15 feet
Minimum side setback between buildings:	20 feet	20 feet
Minimum rear setback:	18 feet**	16 feet**
Parking Spaces	2.04 per du***	2.04 per du***
Minimum distance between lot lines of Townhouses	10 feet	10 feet
Minimum Density	8.0 du/ac.****	8.0 du/ac.****
Maximum Density	12.1 du/ac.****	12.1 du/ac.****
Minimum Width of Alleys	18 feet*****	18 feet*****

Notes: † No more than 40 percent (74 Units) of the total townhouse lots shall be smaller than 1,550 square feet. No townhouse lot shall be smaller than 1,500 square feet. The minimum lot width of any townhouse within this development shall be 20 feet.

* Stoops and/or steps may encroach into the front setback, but shall not encroach more than five feet into the yard.

**Decks and patios can intrude 50% (9 feet for 18-foot setback and 8 feet for 16-foot setback) into the rear setback areas.

***Parking: The Zoning Ordinance requires 2.04 parking spaces per townhouse dwelling unit. The proposed CDP has 191 townhouses and therefore requires a total of 390 parking spaces. The code takes into account visitor parking by requiring two spaces per townhouse, plus an additional 0.04 spaces per unit for visitor parking. Each of the 109 garage townhouses includes two garage spaces (for a total of 218 spaces). Along the streets, 230 parking spaces are provided mostly in front of or adjacent to non-garage units. In total, the townhouse portion of the development has 448 parking spaces. While this exceeds the required 390, it also does not count driveways in both the garage and the non-garage lots that are capable of providing additional legal parking spaces. Sufficient parking is provided for both residents and guests.

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**** Does not apply specifically to garage and non-garage units, but is the overall density of the residential component of the property.

***** Alleys provide adequate turnaround space for normal traffic. However, typical hammerhead turnarounds, in accordance with DPW&T standards, may be required in appropriate locations on alleys as determined at the time of SDP. Turnaround facilities may not be necessary or appropriate in all alley locations.

COMMERCIAL USES

Minimum Lot Coverage	60%
Minimum front Building setback from R.O.W.	10 feet
Minimum front Building setback from US 301	30 feet
Minimum side setback between buildings:	100 feet
Minimum rear setback:	10 feet
Minimum corner setback to side street R-O-W.	10 feet
Maximum building height:	7 stories
Minimum FAR	0.16
Maximum FAR	0.31

**CDP-1201 also recommends that the width of pavement of the spine in the commercial section be a minimum of 26 feet, with a possible expansion near Chadds Ford Drive to accommodate the traffic capacity proposed.

Prior to signature approval of the PPS, the applicant shall revise the plan to conform to the approved design standards as contained in CDP-1201. Specifically, the minimum distance between the lot lines of the end units of townhouses should be a minimum of ten feet, and the minimum distance between townhouse buildings should be a minimum of 20 feet.

Conformance with the 2010 Prince George’s County Landscape Manual

The property is subject to the requirements of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual). Specifically, the site is subject to Section 4.1, Residential Requirements; Section 4.2, Landscape Strips along Streets; Section 4.3, Parking Lot Requirements; Section 4. 7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscape Requirements; and Section 4.10, Street Trees along Private Streets. Compliance with these regulations will be evaluated at the time of SDP review.

Other Design Issues

Nearly all of the buildable land within the residential section of the development appears lotted-out with little consideration for open space between townhome sticks and outdoor amenities. Small

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isolated tot lots should be avoided. The subject PPS should be revised to demonstrate one central location for on-site recreational amenities. Staff recommends that Lots 51 through 56 be eliminated or relocated in order to make space for a centrally-located recreational amenity. Due to the limited time between the CDP and PPS applications, the applicant submitted Applicant Exhibit A to address this recommendation, as discussed further in the Applicant Exhibit A finding.

Parking for visitors in the attached dwelling neighborhoods has been an issue in the county. Provision of additional parking spaces for visitors should be reviewed and evaluated at the time of SDP review.

Sufficient pedestrian connection and circulation between the residential and commercial sections has been the focus of previous approvals. Additional analysis of the pedestrian connection, including future maintenance of the connection, is reviewed with this PPS and should also be further reviewed with the SDP as recommended.

The PPS includes a variation from Section 24-128(a) for private roads and easements and a variation from Section 24-121(a)(3) for direct access to a roadway of arterial or higher classification, which are both analyzed in the variation findings.

The PPS conforms to the recommendations of CDP-1201.

5. **Environmental**—A Type 1 Tree Conservation Plan, TCP1-009-12/01, and an approved Natural Resources Inventory, NRI/038/12, are required and have been reviewed. With regard to the environmental regulations that became effective on September 1, 2010, the subject application is not grandfathered under Subtitles 24 and 25 of the County Code with respect to the delineation of regulated environmental features, woodland conservation, and applicable submittal requirements because the current application is a new preliminary plan of subdivision (PPS).

General Plan Conformance

The 2002 *Prince George's County Approved General Plan* (General Plan) contains tier-specific and countywide-specific goals, objectives, and policies with regard to the protection of natural features, noise pollution, stormwater management, light pollution, and woodland conservation. Many of these policies have been implemented through updates to the Woodland Conservation Ordinance, zoning requirements, and applicable master plans that will be discussed further.

The applicable tier-specific policy is as follows:

POLICY 2: Preserve, restore and enhance environmental features and green Infrastructure elements.

The entire site is located in regulated areas, evaluation areas, and network gaps of the 2005 *Approved Countywide Green Infrastructure Plan*. Preservation and retention of the primary management area (PMA) to the greatest extent possible and woodland conservation will be discussed further under conformance with the Master Plan,

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Development Plan, and Green Infrastructure Plan, and also within the Environmental Review section below.

The applicable countywide-specific policies are as follows:

POLICY 1: Preserve, protect, and enhance the designated green infrastructure elements.

See Conformance with the Countywide Green Infrastructure Plan below.

POLICY 2: Preserve, protect and enhance surface and ground water features and restore lost ecological functions.

Based on the NRI for the subject site, the site contains streams, wetlands and wetland buffers, and 100-year floodplain which comprises the PMA, and are regulated environmental features located on-site. The preservation and protection of groundwater features will be addressed during the review of the stormwater management concept plan by the Department of Public Works and Transportation (DPW&T).

POLICY 3: Preserve existing woodland resources and replant woodland, where possible, while implementing the desired development pattern.

Strategy V. Meet the requirements of the Woodland Conservation Ordinance on-site to the fullest extent possible within the Mattawoman watershed. If off-site mitigation is required, it shall be provided within the Mattawoman watershed.

The entire site is currently wooded. Woodland conservation is discussed in the following sections, as well as the Environmental Review section.

POLICY 5: Reduce overall sky glow, minimize the spill-over of light from one property to the next, and reduce glare from light fixtures.

Light pollution is discussed in the Environmental Review section below.

POLICY 7: Minimize impacts of noise on residential uses during the land development process.

Noise impacts are discussed in the Environmental Review section below.

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Master Plan Conformance

The subject property is located within the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V Planning Areas 81A, 81B, 83, 84, 85A and 85B*. The protection of the regulated environmental features proposed on the PPS and associated Type 1 tree conservation plan (TCP1) is in general conformance with the guidance provided by the master plan.

A possible revision to the comprehensive design plan (CDP) and TCP1 was previously identified as necessary to show the ultimate public rights-of-way associated with the subject property (both state and county) in conformance with the transportation improvements approved with the Subregion V Master Plan, the 2009 Approved Countywide Master Plan of Transportation (MPOT), and the US 301 Upgrade Option.

Conformance with the Countywide Green Infrastructure Plan

The Countywide Green Infrastructure Plan indicates that the site contains regulated areas, evaluation areas, and network gaps, which are consolidated along the stream corridor located along the eastern border of this site. The submitted application shows preservation of the regulated areas and areas adjacent to all regulated areas in general conformance with the Green Infrastructure Plan. Reviews during future development phases will provide more detailed evaluations of conformance with the Green Infrastructure Plan.

The Mattawoman Creek Stream Valley was designated as a special conservation area in the Green Infrastructure Plan because its associated stream basin is among the most productive finfish spawning and nursery streams in the entire Chesapeake Bay region. The quality of the water entering the stream systems in the watershed is of particular concern, and when evaluation areas occur within the watershed, woodlands present should be preserved adjacent to streams to widen the corridors adjacent to regulated areas and protect water quality. This will be evaluated further in the Environmental Review section below.

The following policies are applicable to the review of the subject application:

POLICY 1: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.

The subject property contains regulated areas, evaluation areas, and network gap areas as identified in the Countywide Green Infrastructure Plan located within the Mattawoman Creek Watershed, which is a primary corridor and a special conservation area.

As noted above, the submitted application shows preservation of the regulated areas and some adjacent evaluation areas in general conformance with the Green Infrastructure Plan. Reviews during this and future development phases will provide more detailed evaluations of conformance with the Green Infrastructure Plan and will explore opportunities to expand the riparian buffers area located in the evaluation area.

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POLICY 2: Preserve, protect and enhance surface and ground water features and restore lost ecological functions.

Preservation of water quality in this area will be provided through the protection of the expanded stream buffers and the application of best SWM practices. It is recommended that environmental site design techniques be applied throughout this site to the fullest extent practicable. Stormwater management will be further discussed in the Environmental Review section below.

POLICY 3: Preserve existing woodland resources and replant woodland, where possible, while implementing the desired development pattern of the 2002 General Plan.

This policy is superseded by the General Plan policy and strategy to meet the requirements of the woodland conservation on-site to the fullest extent possible within the Mattawoman watershed, or if off-site mitigation is required, to provide it within the Mattawoman watershed.

The TCP1 for the subject property should demonstrate that the requirements of the Woodland and Wildlife Habitat Conservation Ordinance (WCO) are provided on-site through preservation or afforestation to the fullest extent possible, consistent with the desired pattern of development and densities indicated in the General Plan. If off-site mitigation is required, it should be provided within the Mattawoman watershed. Woodland conservation will be further discussed in the Environmental Review section below.

Previous Zoning Approvals for A-9997-C

Basic Plan A-9996-C was approved by the District Council on January 19, 2009 subject to the following condition which is environmental in nature:

6. **At time of comprehensive design plan ("CDP"), the applicant shall:**
 - d. **Provide a valid stormwater management concept approval letter and plan.**

A valid SWM concept approval letter and associated plans (15822-2008-01) was submitted with the current application, and will be discussed in the Stormwater Management finding.

Environmental Review

The NRI shows that the site is bifurcated by a stream, 100-year floodplain, and wetland system running north to south through the property. The principal stream on the site is a tributary of Mattawoman Creek in the Potomac River Watershed. According to the Web Soil Survey, the principal soils on the site are in the Aquasco, Beltsville, Bibb, Grosstown, Hoghole-Grosstown, Leonardtown and Potobac-Issue soil series. Aquasco and Beltsville soils are highly erodible, and may have perched watertables and impeded drainage. Grosstown and Hoghole-Grosstown pose few problems to development. Leonardtown and Potobac-Issue complex soils are hydric or partially hydric with poor drainage. High groundwater and poor drainage is problematic for both

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foundations and basements. This information is provided for the applicant's benefit, and may affect the architectural design of structures, grading requirements, and SWM elements of the site. DPW&T may require a soils report in conformance with County Council Bill CB-94-2004 during the permit process review. There are no Marlboro clays or scenic or historic roads located on or adjacent to the subject property. Current air photos indicate that the site is predominantly wooded and not developed. Based on information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this site.

The property is subject to the provisions of the WCO because the gross tract area is in excess of 40,000 square feet and there are more than 10,000 square feet of existing woodland on-site. A TCP1 (TCP1-009-12) has been submitted for review.

The current zoning (L-A-C) of the subject property has a woodland conservation threshold of 15 percent or 5.10 acres, which is correctly reflected in the TCP1 worksheet. The TCP1 proposes to clear 31.09 acres of on-site net tract woodland and 0.49 acre of wooded floodplain, resulting in a woodland conservation requirement of 15.63 acres. The requirement is proposed to be met with 1.74 acres of on-site preservation, 1.07 acres of on-site afforestation/reforestation, and 12.82 acres of off-site woodland conservation credits.

The Mattawoman Creek Stream Valley was designated as a special conservation area in the Green Infrastructure Plan because its associated stream basin is among the most productive finfish spawning and nursery streams in the entire Chesapeake Bay region. The quality of the water entering the stream systems in the watershed is of particular concern, and when evaluation areas occur within the watershed, woodlands present should be preserved adjacent to streams to widen the corridors adjacent to regulated areas and protect water quality. The on-site woodland conservation proposed on the TCP1 falls below the woodland conservation threshold of 5.10 acres, although there is opportunity for expansion of the wooded stream buffer running through the development. The TCP1 plan also required technical revisions to be in conformance with the requirements of the Environmental Technical Manual.

After September 1, 2010, pursuant to Section 25-122(d)(1)(B) of the County Code, woodland preserved, planted, or regenerated on-site shall be placed in a woodland conservation easement recorded in land records and the liber and folio of the easement indicated on all plans of development. A woodland conservation easement will be required when a Type 2 tree conservation plan (TCP2) is prepared with the SDP. When a TCP2 is prepared, prior to signature approval, recording of a woodland conservation easement in land records will be required, and the liber and folio of the easement will be placed on the TCP2 in a required note.

Policies contained in the General Plan call for the reduction of adverse noise impacts to meet State of Maryland noise standards. Transportation-related noise impacts associated with Robert Crain Highway (US 301) and A-55, a master-planned roadway running slightly north of the subject application, needs to be evaluated with the current application relative to State of Maryland noise

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standards for residential uses. Residential uses or residential outdoor activity areas that are proposed within the 65 dBA Ldn noise contour or higher may require mitigation.

Robert Crain Highway is an existing source of traffic-generated noise, and a master-planned freeway. The modeled location of the 65 dBA Ldn noise contour was generated for this site using the Environmental Planning Section's noise model at 792 feet from the centerline of US 301. The location of this noise contour has been delineated on the coversheets of both the PPS and TCP1, but should also be reflected on all plan sheets for evaluation purposes.

Chadds Ford Drive (A-55) is a master-planned arterial running east to west just north of the subject application. The location of the 65 dBA Ldn noise contour was generated for this site using the Environmental Planning Section's noise model at 212 feet from the centerline of the roadway. Chadds Ford Drive (A-55) has been delineated on the PPS, CDP, and TCP1, as well as the location of noise contours needed for evaluation purposes.

The applicant has submitted a Phase I noise contour evaluating noise impacts on the proposed site development titled "Brandywine Village Acoustical Analysis" dated March 19, 2013 and prepared by HUSH Acoustics, Inc. The study has determined that the 65 dBA Ldn noise contour, which is the maximum allowable decibel measurement for active outdoor areas for residential uses, will not reach the rear yards of the proposed single-family attached dwelling units, and as a result acceptable sound levels will be achieved without the use of a noise barrier.

Sound levels at the façades of residences on the top floor of the residential area may experience noise levels higher than 65 dBA Ldn specifically adjacent to the stream valley in the southwest corner of the site. These areas will be further evaluated for interior noise level mitigated to 45 dBA Ldn or less in conjunction with the future review and approval of architecture and construction methodology.

Policy 5 in the Environmental Infrastructure chapter of the General Plan calls for the reduction of overall sky glow, minimizing of the spill-over of light from one property to the next, and a reduction of glare from light fixtures. This is of particular concern on a mixed-use site such as the subject application, because the residential uses could be directly impacted by the lighting from the other uses.

The proposed lighting should use full cut-off optics to ensure that off-site light intrusion into residential and environmentally-sensitive areas is minimized, and so that sky glow does not increase as a result of this development.

Section 25-122(b)(1)(G) requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree's condition and the species' ability to survive construction as provided in the Technical Manual."

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There are three specimen trees identified on the subject property, which are all located within the PMA. None are proposed to be removed with the current application. If any specimen trees are proposed to be removed with any future development process, a variance to Subtitle 25 will be required.

6. **Primary Management Area (PMA)**—This site contains regulated environmental features that are required to be protected under Section 24-130 of the Subdivision Regulations. The on-site regulated environmental features include streams, wetlands and wetland buffers, and 100-year floodplain. Section 24-130(b)(5) states:

- (5) **Where a property is located outside the Chesapeake Bay Critical Areas Overlay Zones the preliminary plan and all plans associated with the subject application shall demonstrate the preservation and/or restoration of regulated environmental features in a natural state to the fullest extent possible. Any lot or parcel proposed for development shall provide a minimum of one acre of contiguous land area exclusive of any land within regulated environmental features in a configuration that will support the reasonable development of the property. This limitation does not apply to open space and recreational parcels. All regulated environmental features shall be placed in a conservation easement and depicted on the final plat.**

Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for stormwater management (SWM) facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. Stormwater management outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, SWM facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with the County Code.

A letter of justification and associated exhibits for the proposed impacts were stamped as received on March 25, 2013. The plans and exhibits show the location of three proposed impacts for the construction of a master plan trail, sewer connections and stormwater outfalls. The proposed impacts were also evaluated with the CDP. All primary management area (PMA) impacts proposed were supported with the CDP except for the clearing on Parcel 4 related to clearing in the PMA for the construction of a SWM pond.

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The Environmental Technical Manual (ETM) provides guidance in determining if a site has been designed to meet the threshold of "fullest extent possible." The first step in the evaluation is determining if an impact is avoidable. If an impact cannot be avoided because it is necessary for the overall development, the next step is to minimize the impact. If an impact cannot be minimized, mitigation if proffered may be considered depending on the extent of the impact.

The following is a summary of each impact requested and the evaluation of the necessity of the impacts proposed:

Impact 1: Proposes to permanently impact 31,346 square feet of the stream, stream buffer and 100-year floodplain to construct a trail crossing the stream and PMA, install necessary site utilities, and provide a SWM pond on the west side of the stream. The stream, stream buffer and 100-year floodplain bifurcates the site. According to the justification statement, the applicant's request states that the trail is necessary to link the commercial and residential portions of the site together in accordance with the goals of the master plan, and that the sewer connections and stormwater outfalls are necessary infrastructure for the development of the site.

Avoidance/Minimization Analysis

The trail is proposed to link the western and eastern portion of the site, and can only be avoided if the trail is not constructed, which is contrary to development of a "multi-modal transportation network that increases mobility options for pedestrians, bicyclists and transit riders." The impacts of the trail have been minimized to the extent possible by a perpendicular crossing of the stream at a point where most of the wetland areas and wetland buffers can be avoided, and where the greatest convenience can be achieved for connecting the two separated uses occurring on this site. Further review of the trail crossing between the commercial and residential portions of this property will occur with the reviews of SDPs.

The sewer and utility lines proposed run parallel to the stream valley and connect existing utility lines already existing in the PMA. Impacts cannot be avoided since utilities are a necessary adjunct to development of the site, but the placement of the utilities has been carefully coordinated to limit minimize PMA impacts to the fullest extent possible.

The stormwater outfall is necessary to carry the outfall from the western SWM pond into the adjacent stream and comply with SWM regulations. The outfall has been placed perpendicular to the stream in order to minimize impacts, and has been further coordinated with utilities placed in the stream valley.

Due to the foregoing, the Planning Board supports this impact as proposed.

Impact 2: Proposes to permanently impact 796 square feet of floodplain to construct an outfall to carry stormwater from the southwest SWM pond into the adjacent stream valley.

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The location of the outfall is dictated by maintaining the natural drainage patterns and hydrologic function of the site.

Avoidance/Minimization Analysis

This impact is unavoidable because the connection to the stream through the floodplain is required by SWM regulations. The impacts shown are the minimum necessary to provide an outfall to required design specifications.

Based upon the foregoing, the Planning Board supports this impact.

Impact 3: Proposes to permanently impact 4,422 square feet of stream, stream buffer, and floodplain area for the construction of a SWM pond on the eastern portion of the site and an outfall from the pond into the stream valley.

Avoidance/Minimization Analysis

The impacts proposed for the construction of the outfall are considered necessary for the orderly development of the subject property and compliance with SWM regulations. The location of the outfall within the 100-year floodplain is instrumental to guiding the hydrologic flow into the adjacent stream and has been minimized to the fullest extent possible. Due to these factors, the Planning Board supports this portion of the requested impact.

The impacts to the PMA resulting from the construction of the SWM pond on Parcel 4 can be avoided through the placement and design of the SWM facility. There is no impediment to moving all grading related to the SWM pond, except for the previously discussed outfall, outside of the PMA and further upland on the site. The Planning Board does not support this portion of this impact request because sufficient effort to avoid and minimize impacts to the PMA for construction of the SWM pond was not demonstrated in the design of the site. The approved SWM concept plan shows a SWM pond in this location which has no impact on the adjacent PMA.

Prior to signature approval of the PPS, the PPS and TCP1 shall be revised to show that PMA impacts related to the eastern SWM pond (Impact 3) on the site shall be limited to those necessary for the SWM outfall.

The Planning Board supports this impact conditionally as indicated above.

Primary Management Area Conclusions

Based on the level of design information available at the present time, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible, based on the limits of disturbance shown on the impact exhibits and the tree conservation plan submitted for review, except the portion of Impact 3 which results from the placement of the SWM pond. The impacts approved in concept are for two SWM outfalls, and sewer and utility connections because these site features are required by other provisions of the County Code and

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cannot be avoided. Impacts proposed with the current location of the eastern SWM pond are not supportable.

In summary, the Planning Board approves Impacts 1 and 2, and conditionally approves Impact 3.

7. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management (SWM) is required. A Stormwater Management Concept Plan, 15822-2008-01, was approved on July 3, 2012 and is valid until May 4, 2013. The SWM concept plan indicates the construction of three stormwater ponds with forebays. Prior to signature approval of the preliminary plan of subdivision (PPS), the valid SWM concept plan should be submitted and should be in substantial conformance with the approved PPS.

The approved SWM concept plan is required to be designed in conformance with any approved watershed management plan, pursuant to Subtitle 32, Water Resources and Protection, Division 3, Stormwater Management Plan, Section 172 Watershed Management Planning, of the Prince George's County Code. As such, the requirement of Section 24-130(b)(4) of the Subdivision Regulations, which requires that a subdivision be in conformance with any watershed management plan, has been addressed with the approval of the SWM concept plan by DPW&T.

8. **Parks and Recreation**—This preliminary plan of subdivision (PPS) has been reviewed by the Department of Parks and Recreation (DPR) for conformance to the Subdivision Regulations, the requirements of the 2009 *Preliminary Subregion 5 Master Plan and the Proposed Sectional Map Amendment for Planning Areas 81A, 81B, 83, 84, and 85A*, Zoning Map Amendments A-9996 and A-9997 (Chaddsford and Chaddsford Center), Comprehensive Design Plan CDP-1201 (Brandywine Village), the Land Preservation and Recreation Program for Prince George's County, current zoning regulations, and the existing conditions within the vicinity of the proposed development as they pertain to public parks and recreational facilities.

The subject property consists of 44.33 acres of land and is located east of Robert Crain Highway (US 301) and on the north side of Chadds Ford Drive and was re-zoned to L-A-C in January of 2009 under Zoning Map Amendments A-9996 and A-9997. The property is divided into three distinct areas, commercial (towards the east along Robert Crain Highway (US 301)), a stream channel and 100-year floodplain (along the center of the property running north to south) and residential (along the western portion of the subject project with frontage onto General Lafayette Boulevard) with a maximum allowable density of 12.1 units per acre.

In 2012, the applicant submitted Comprehensive Design Plan CDP 1201 showing the same basic layout of the current submitted Preliminary Plan. DPR's recommendations for approval of the CDP were:

- a. **At the time of the Preliminary Plan of Subdivision for the development, the applicant shall be required to pay a fee-in lieu to meet the Mandatory Dedication of Parkland requirement.**

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The Preliminary Plan as submitted shows 191 single-family attached lots and encompasses 20.88 acres of the subject property, which equates to a density of 9.2 acres per acre. As per Section 24-134 of the Prince Georges County Subdivision Regulations, Mandatory Dedication of Parkland is applicable to the residential portion of the proposed development. Based on this code regulation, the development plan will require Mandatory Dedication of ten percent of the residential land area which calculates to 2.08 acres of land suitable for active recreation.

Section 24-135 allows for the Planning Board to approve either (a) a fee-in-lieu of land dedication or (b) Private Recreational Facilities instead of land or fees at the time of PPS. At the time of CDP-1201 review, there was a proposal put forth by the applicant to dedicate the stream valley to M-NCPPC, to satisfy the requirements of Mandatory Dedication of Parkland. While the stream valley contains a 100-year floodplain which should be preserved as a natural resource, it is not contiguous to existing M-NCPPC property and not designated as a Stream Valley Park in the Subregion 5 master plan. Within the immediate vicinity of the subject property, there exists the M-NCPPC-owned Rose Creek Connector Trail Park (which is located in the adjacent Chadds Ford Subdivision) and further to the east of US 301 is Timothy Branch, which will offer additional opportunities for preservation and recreational opportunities. Both of these trails are ultimately planned for connection to the Mattawoman Stream Valley Park to the south.

Current planning studies and statistics indicate that there is a high need for recreational facilities in the Brandywine area. Consistent with our recommendation of approval on Comprehensive Design Plan CDP-1201, DPR recommends that the applicant pay a fee-in-lieu in order to fulfill the requirements of mandatory dedication under Section 24-134 of the Subdivision Regulations, if the application is approved with conditions. The fees collected in this area will help fund additional recreational facilities that will serve the future residents of this development and community.

The private on-site recreational facilities provided by the applicant are a part of the density increment factor analysis under CDP-1201.

9. **Trails**—This PPS has been reviewed for conformance with Section 24-123 of the Subdivision Regulations, previous approvals, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), and the appropriate area master plan, in order to implement planned trails, bikeways, and pedestrian improvements.

The 2009 *Approved Countywide Master Plan of Transportation* (MPOT) designates General Lafayette Boulevard as a master plan sidepath (or wide sidewalk) corridor. This road has already been constructed with standard sidewalks on both sides and wide outside curb lanes to accommodate bicycles. After consultation with the applicant and the Department of Public Works and Transportation (DPW&T), it was determined that it is feasible to widen the sidewalk along the subject site's frontage of General Lafayette Boulevard to accommodate this master plan sidepath. Access to the sidewalks and trail network in the adjacent Chadds Ford community is provided along the wide sidewalk on the north side of Chadds Ford Drive.

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Additional trails shown on the submitted CDP include an HOA trail along the stream valley that bisects the subject site north to south and one east to west connection linking the proposed residential area with the commercial space. The stream valley trail was intended as a recreational amenity that allows residents to walk in a wooded, park-like setting, and recommended by the Transportation Planning Section at the time of CDP. However, after review of the submitted preliminary plan and discussions with the Environmental Planning and Subdivision Review sections, staff has determined that due to the close proximity of the trail immediately behind private residential lots and within some segments of the primary management area (PMA), it is necessary to relocate the north-south pedestrian connection. This portion of the trail will be accommodated by the six-foot-wide sidewalks along Road 'D'. Although this type of connection is not a recreational amenity in a park-like setting, it does provide a safe pedestrian route in the corridor. Due to the proximity to the private lots and the impacts to the PMA, the stream valley trail should be removed in this location.

The trail connection across the stream valley will provide direct bike and pedestrian access between the residential and commercial pods of the development. Sidewalks are recommended along both sides of all internal roads consistent with the complete streets policies of the MPOT. The consideration included in both Basic Plans (A-9996 and A-9997) recommends "feeder connections to all development pods." These connections will have to be evaluated at the time of SDP, but it appears that many of these connections are already accommodated along the internal sidewalk network and with the trail connection to the commercial portion of the site. At the time of SDP, the connector trail from Parcel A, HOA parcel, to the commercial pods will need to be evaluated for the design, layout, use easement for trail, and triggers for the construction and bonding of the trail.

Several conditions of approval from the basic plans address bicycle and pedestrian facilities. The site is subject to previously approved A-9996-C (PGCPB Resolution No. 08-73), which included several conditions related to bicycle and pedestrian facilities. These conditions of approval are reiterated below:

2. **At the time of comprehensive design plan, the transportation planning staff shall make master plan transportation facility recommendations consistent with the Subregion V master plan.**
6. **To the extent practicable, the basic plan shall be amended to show additional opportunities for integration and connectivity between the proposed residential development and the adjoining commercial development.**
7. **At time of comprehensive design plan, the applicant shall:**
 - c. **Provide pedestrian connectivity to the proposed L-A-C Zone commercial area.**

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Basic Plan A-9996-C also included one consideration related to the designation of trail connections on the CDP:

Consideration:

- 1. The applicant, the applicant's heirs, successors and/or assignees shall designate all master plan trails, plus feeder connections to all development pods on the comprehensive design plan.**

The site is also subject to approved A-9997-C (PGCPB Resolution No. 08-74) which included the following conditions of approval related to bike and pedestrian access.

- 2. To the extent practicable, the basic plan shall be amended to show additional opportunities for integration and connectivity between the proposed commercial development and the adjoining residential development.**
- 3. At the time of comprehensive design plan, the applicant shall:**
 - c. Provide pedestrian connectivity to the proposed L-A-C Zone residential area.**
- 4. At the time of comprehensive design plan, the transportation planning staff shall make master plan transportation facility recommendations consistent with the Subregion V master plan.**

Considerations:

- 1. The applicant, the applicant's heirs, successors and/or assignees, shall designate all master plan trails, plus feeder connections to all development pods on the comprehensive design plan.**

The applicant has addressed the basic plan conditions and considerations from both A-9996-C and A-9997-C. A comprehensive network of sidewalks and trail facilities has been provided that accommodates pedestrian access within the subject site, between the development pods, and to the adjoining communities. Standard sidewalks are provided along all internal roads, access points are provided along General Lafayette Boulevard, and trail access is provided to the commercial portion of the site. Additional crosswalks or pavement marking may be considered through the commercial area parking lot at the time of SDP.

From the standpoint of non-motorized transportation, it is determined that this preliminary plan is acceptable, fulfills the intent of applicable master plans and functional plans, fulfills prior conditions of approval, and meets the findings required for a comprehensive design. Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities would exist to serve the proposed subdivision as required under Section 24-123 of the Subdivision Regulations.

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10. **Transportation**—The property is located on the north side of Chadds Ford Drive on the west side of Robert Crain Highway/Branch Avenue (US 301/MD 5) and east of General Lafayette Boulevard. The applicant proposes to develop the overall property as a mixed-use development with approximately 191 dwellings and 243,048 square feet of commercial space.

Analysis of Traffic Impacts

The application is for a mixed-use development. While the residential development quantity has remained consistent throughout the review of this case, the commercial development quantity was described as 218,500 square feet for the current site, with the potential for an additional 30,000 square feet (248,500 square feet) if a portion of the US 301/MD 5 right-of-way was vacated and incorporated into the site pursuant to Section 24-112 of the Subdivision Regulations. That vacation has not occurred, and the subject application as proposed does not include the vacated area. The traffic study analyzed 248,500 square feet. However, based on the floor area ratio (FAR) in the CDP, a commercial square-footage representing the maximum achievable, given the available density increments and site acreage, as described for Comprehensive Design Plan CDP-1201 is 243,048 square feet, which was used in the analysis. The table below summarizes trip generation in each peak hour that will be used for the analysis and for formulating the trip cap for the site:

Trip Generation Summary, 4-12007, Brandywine Village								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Medical/Professional Office	100,000	square feet	230	55	285	120	260	380
General Office	100,000	square feet	180	20	200	35	150	185
Less Internal Trip Capture			-5	-6	-11	-12	-12	-24
Net Office Trips			405	69	474	143	398	541
Retail	43,048	square feet	58	35	93	164	177	341
Less Internal Trip Capture			-5	-4	-9	-5	-5	-10
Less Pass-By (40 percent)			-21	-12	-33	-64	-69	-133
Net Retail Trips			32	19	51	95	103	198
Townhouses	191		27	107	134	99	54	153
Total Trips Utilized in Analysis			464	195	659	337	555	892

The trip generation is estimated using trip rates and requirements in the "Transportation Review Guidelines, Part 1 (*Guidelines*)."

Pass-by and internal trip capture rates are in accordance with the *Trip Generation Handbook* (Institute of Transportation Engineers).

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The traffic generated by the proposed preliminary plan would impact the following five intersections, interchanges, and links in the transportation system:

- US 301/MD 5 and Chadds Ford Drive (signalized)
- US 301/MD 5 and Matapeake Business Drive (signalized)
- US 301/MD 5 and Cedarville Road/McKendree Road (signalized)
- Chadds Ford Drive and commercial site access (future/unsignalized)
- Chadds Ford Drive and General Lafayette Boulevard (unsignalized)

The application is supported by a traffic study dated June 2012 provided by the applicant and referred to the Maryland State Highway Administration (SHA) and the County Department of Public Works and Transportation (DPW&T). Comments from DPW&T and SHA have been received. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the Transportation Planning Section, consistent with the *Guidelines*.

The subject property is located within the Developing Tier, as defined in the 2002 *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

- **Links and signalized intersections:** Level of Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the *Guidelines*.
- **Unsignalized intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections: (a) vehicle delay is computed in all movements using *The Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. Once the CLV exceeds 1,150 for the intersection, this is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The following five critical intersections, interchanges and links identified above, when analyzed with existing traffic using counts taken in January and April 2012 and existing lane configurations, operate as follows:

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EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
	US 301/MD 5 and Chadds Ford Drive	1,014	1,502	B
US 301/MD 5 and Matapeake Business Drive	959	1,547	A	E
US 301/MD 5 and Cedarville/McKendree Road	1,138	1,765	B	F
Chadds Ford Drive and commercial site access	future			
Chadds Ford Drive and General Lafayette Boulevard	9.3*	9.1*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

None of the critical intersections identified above are programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation "Consolidated Transportation Program" or the Prince George's County "Capital Improvement Program." Background traffic has been developed for the study area using an extensive listing of approved developments in the area and 1.0 percent annual growth rate in through traffic along Robert Crain Highway (US 301) and Branch Avenue (MD 5). The critical intersections, when analyzed with background traffic and existing (or future) lane configurations, operate as follows:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
	US 301/MD 5 and Chadds Ford Drive	1,389	2,092	D
US 301/MD 5 and Matapeake Business Drive	1,238	2,185	C	F
US 301/MD 5 and Cedarville/McKendree Road	1,701	2,419	F	F
Chadds Ford Drive and commercial site access	future			
Chadds Ford Drive and General Lafayette Boulevard	11.1*	14.0*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

The following critical intersections, interchanges and links identified above, when analyzed with the programmed improvements and total future traffic as developed using the Guidelines,

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including the site trip generation as described above and the distribution as described in the traffic study, operate as follows:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
	US 301/MD 5 and Chadds Ford Drive	1,443	2,276	D
US 301/MD 5 and Matapeake Business Drive	1,298	2,272	C	F
US 301/MD 5 and Cedarville/McKendree Road	1,762	2,505	F	F
Chadds Ford Drive and commercial site access				
Maximum Vehicle Delay (in seconds)	15.4*	174.9*	Pass	Fail
Maximum Minor Street Approach Volume	N/A	570*		Fail
Critical Lane Volume	N/A	803*		Pass
Chadds Ford Drive and General Lafayette Boulevard				
Maximum Vehicle Delay (in seconds)	12.8*	19.1*	Pass	Pass
*In analyzing two-way stop-controlled intersections, a three-step procedure is employed in which the greatest average delay in seconds for any movement within the intersection, the maximum approach volume on a minor approach, and the critical lane volume is computed and compared to the approved standards. According to the Guidelines, all three tests must fail in order to require a signal warrant study.				

It is found that the three critical intersections along US 301/MD 5 operate unacceptably under total traffic in either one or both peak hours, while both unsignalized intersections operate acceptably. In response to the inadequacies, the applicant proposes the following:

The subject site is required to contribute to the Brandywine Road Club. The level of this contribution is consistent with that used for adjacent properties. It is noted that the Brandywine Road Club has posed several issues for the Planning Board in the past, and these issues are briefly summarized below:

- a. The use of the Brandywine Road Club in approving a development poses an issue of concurrency. Section 24-124 of the Subdivision Ordinance (the section that governs findings of adequate transportation facilities) is intended to ensure that needed transportation facilities occur concurrently with development or within a reasonable time thereafter. However, transportation inadequacies in the area have been documented since 1989. Beginning in 1900, many properties have been approved with a condition to pay funds toward a Brandywine Road Club. But since those initial approvals, no improvements have been constructed. Furthermore, there is nothing in either the current county Capital Improvement Program or the state's Consolidated Transportation Program that suggests that needed improvements are funded for construction.

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- b. Council Resolution CR-60-1993 approved the master plan and the sectional map amendment for the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V Planning Areas 81A, 81B, 83, 84, 85A and 85B*. As a part of that resolution, Zoning Map Amendment A-9878 for Brandywine Village, was approved with conditions that allow this and many other properties to participate in the Brandywine Road Club as a means of determining transportation adequacy. The same condition allows such road club participation by “any properties along US 301/MD 5 between Timothy Branch (the intersection of US 301 and MD 5 in Prince George’s County) and Mattawoman Creek.” This has been carefully considered, and it has been determined that the subject property is along the identified section of US 301/MD 5. Therefore, the use of the Brandywine Road Club for this site is consistent with the intent of the Council Resolution.
- c. The County Council adopted County Council Resolution CR-33-2011 on July 12, 2011, for the purpose of suspending, with certain exemptions, the Brandywine Road Club as a means of satisfying the adequate transportation facilities requirement in considering proposals for development in the Brandywine area.
- d. On October 25, 2011, the County Council adopted County Council Resolution CR-61-2011: “...development projects located entirely within a Mixed Use, Commercial, Industrial, or Employment and Institutional Area (‘E-I-A’) Zone, or combination thereof, may use the Brandywine Road Club as a means for satisfying the requirements of Section 24-124 of the Prince George’s County Code.” The resolution states that the L-A-C Zone as one of the eligible zones for use of the Brandywine Road Club. The Road Club has always involved the construction of interchanges north and south of the study area, along with north-south roadways connecting properties to those intersections that would eliminate existing signals and provide adequacy. The Road Club was implemented in recognition that the scope and cost of these improvements would far exceed the ability of an individual applicant to fund them.

For the reasons described above, and particularly given that the County Council has specifically authorized that developments within certain zones and within a defined area can proceed with the payment of fees under the Brandywine Road Club, the use of the Brandywine Road Club as a means, in part, of finding adequacy for this site is deemed to be acceptable. It is determined that adequate transportation facilities can only be found if there is participation in the Brandywine Road Club.

The traffic study was referred to and reviewed by DPW&T and SHA who offered the following comments in part:

- a. DPW&T has offered five comments that require some discussion. These comments include the following:

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- (1) DPW&T has agreed that the developer shall pay toward the Brandywine Road Club.
 - (2) DPW&T indicates that median breaks are generally permitted at 600-foot minimum intervals, and for that reason indicates that the access points to the residential section should operate at right-in/right-out access points only. Since the original plan was submitted, the residential portion of the site has been redesigned to connect to a major access point at the existing median break. It is recognized that any other access points will be right-in/right-out, but nonetheless a condition will be written in that regard.
 - (3) Given that the commercial access point is only 400 feet west of US 301/MD 5, DPW&T recommends that two full lanes westbound be provided along Chadds Ford Drive between US 301/MD 5 and General Lafayette Boulevard. Given that the traffic study results were based on two lanes being available, this will be made a condition.
 - (4) DPW&T recommends that the commercial access point be aligned with the approved but unbuilt commercial access to property on the south side of Chadds Ford Drive. The stream that separates the commercial and the residential portions of this site crosses Chadds Ford Drive at the location of the commercial access to the south; that situation creates a major issue with moving the commercial access for the subject site. Other solutions have been explored and discussed, and DPW&T has verbally agreed that the access point is permissible in its current location.
 - (5) DPW&T suggests that if a signal is warranted at the proposed commercial access, given the proximity to the existing US 301/MD 5 signal requires that it be operationally coordinated with that signal. Given that this intersection passes the current adequacy test for an unsignalized intersection, there will be no future warrant study done as a condition of this development.
- b. SHA has offered five comments:
- (1) SHA's first and second comments concern the failing operations at the three intersections along US 301/MD 5 and the use of the Brandywine Road Club. Specifically, SHA requests that the study show improvements at these three intersections, and indicates support for use of the Road Club only when improvements that offset the development's traffic impact are proffered. SHA has offered similar comments regarding developments in the Brandywine area during recent years. However, the Brandywine Road

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Club was created to help fund adequate improvements for the area over the long term. Other applicants have done improvements in their immediate area to assist traffic movement in the near term, but applicants have not been strictly required to offset all traffic impacts. By means of three separate resolutions of the Prince George's County Council (CR-60-1993, CR-33-2011, and CR-61-2011), the council has opined on the role of the Brandywine Road Club in approving development in the Brandywine area. Furthermore, additional improvements at the three intersections identified, short of widening the overall link of US 301/MD 5, would have a negligible impact on capacity. Short of actually constructing the interchange, the intersections along this segment of US 301/MD 5 are essentially built out for at-grade operations.

- (2) SHA has indicated that, due to the heavily congested nature of this corridor, SHA will not approve the requested additional right-in/right-out access point along US 301/MD 5. As a part of the review of the preliminary plan of subdivision, a request for a variation from Section 24-121(a)(3) of the Subdivision Regulations was submitted and reviewed. Section 24-121(a)(3) restricts direct access onto a roadway with an arterial or higher roadway classification. Along the properties frontage Robert Crain Highway (US 301) is classified as a freeway, which is a higher classification than an arterial. The specifics of this request are discussed further in the variation finding.
- (3) SHA states that traffic counts taken in early January should not have been accepted, and that the counts should have been deferred until mid-January to ensure that "normal" traffic flow has resumed. It is noted that the timing of the traffic counts is consistent with the traffic counting practices outlined in the Planning Boards "Transportation Review Guidelines, Part 1" as well as the Guidelines that were in effect at the time that the study was prepared.
- (4) SHA has requested that a revised traffic study be submitted with a point-by-point response to the SHA comments. Given that the study is submitted by applicants to the Prince George's County Planning Department, and not prepared internally by transportation planning staff, the transportation staff are not authorized to prepare a revision on behalf of an applicant nor are staff empowered to compel that an applicant prepare a revision as long as the study is prepared in general conformance to the *Guidelines*. By way of this finding, however, applicants shall be aware that additional requests to SHA regarding this development may be contingent upon providing a revised study and adequate responses to the attached letter.

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Plan Comments

Robert Crain Highway/Branch Avenue (US 301/MD 5) is a master plan freeway facility; per the master plan, the right-of-way varies. No additional right-of-way beyond the current right-of-way is currently recommended. It is noted that the plan indicates that a portion of the existing right-of-way is to be vacated. The limits of that vacation have been discussed by the applicant and delineated on the PPS, and will be determined if and when an application for a vacation is filed with the Maryland-National Capital Park and Planning Commission (M-NCPPC) and will be reviewed as a part of that application by the State Highway Administration (SHA). Therefore, that property to be vacated is not a part of this application and not under consideration.

General Lafayette Boulevard is a master plan major collector facility with a minimum right-of-way width of 100 feet. Right-of-way along this facility has been previously dedicated along the frontage of the site. No further dedication is required. The PPS proposes several access locations via private streets onto General Lafayette Boulevard for the residential development, which is deemed acceptable.

Another application, Comprehensive Design Plan CDP-1201, is currently under review, and according to the order of approvals will be acted upon prior to this case. A number of issues that were raised at the time of the subdivision review committee meeting for the other case have been resolved through ongoing discussions and reviews of both plans. The current plan generally reflects the results of these discussions, and is reflected on Applicant Exhibit A.

The PPS proposes all internal streets and roadways as private. However, those streets should be built in accordance with DPW&T standards. DPW&T requires a 36-foot-wide pavement for the entrance to the commercial section. The spine road in the commercial section should be designed for through traffic without parking because the street will be utilized as an inter-parcel connection to the adjoining parcel to the north from Chadds Ford Drive. The spine street in the commercial section should have a minimum 26-foot-wide pavement. The spine street in the residential section should have a minimum 26-foot-wide pavement. On-street parking is allowed in the residential section only. However, parking should be outside of the 26-foot-wide pavement of the residential spine road. No parking should be allowed on those streets especially around the site access areas of the four entrances in the residential section. No parking should be allowed on the spine road of the commercial section, but as discussed further, will be reviewed in more detail at the time of SDP.

The PPS proposes Parcels 1-6 to utilize a private access easement to serve as inter-parcel connection for the commercial development pursuant to Section 24-128(b)(9) of the Subdivision Regulations. Parcels 1-6 have frontage on US 301, a master plan freeway facility, where direct access should be restricted due to the volume of traffic. Therefore, a private easement for Parcels 1-6 to serve as access and inter-parcel connection pursuant to Section 24-128(b)(9) is supported. The access easement will connect from Chadds Ford Drive and will intersect at the northern property line of Parcel 1 to ensure that the site will have future access to A-55 to the north pursuant to Zoning Map Amendment A-9997-C, Condition 6, as the property to the north develops. The easement along the northern property line should be widened to an extent that will allow flexibility in the planning process with the SDP, for the connection to the north. The

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easement area should be extended from US 301 to the eastern edge of the PMA for future planning purposes along the northern property line, which can be reduced with the SDP review for Parcel 1.

There continues to be a concern that the internal commercial roadway that is parallel to US 301 should show a paving section greater than 26 feet in width. Given that commercial traffic volumes could approach 8,000 daily vehicles at the southern end of this roadway, it is advised that the typical section should be reviewed as a part of specific design plan review to consider a center left-turn lane at key driveway locations along its length, and that two lanes be provided approaching Chadds Ford Drive to lessen the opportunity for excessive queuing at the intersection.

Review of Basic Plan and CDP Conditions

The basic plan for the site was approved by means of District Council orders approving zoning applications A-9996 and A-9997. The status of the transportation-related Basic Plan conditions for application A-9996 (A-9997 has identical Conditions 2 through 5) as follows:

2. **At the time of comprehensive design plan, the transportation planning staff shall make master plan transportation facility recommendations consistent with the Subregion V master plan.**

This condition indicates that the transportation staff shall make master plan transportation recommendations consistent with the applicable master plan. This has been done.

3. **At the time of comprehensive design plan and preliminary plan of subdivision, the transportation planning staff shall review a traffic impact study as a means of making findings of the adequacy of transportation facilities. The traffic study shall, at a minimum, include the following as critical intersections:**
 - a. **US 301/MD 5 and Matapeake Business Drive/Clymer Drive (signalized)**
 - b. **US 301/MD 5 and Chadds Ford Drive (signalized)**
 - c. **US 301/MD 5 and Cedarville Road/McKendree Road (signalized)**
 - d. **Chadds Ford Drive and General Lafayette Boulevard (unsignalized)**

This condition specifies the intersections to be studied at later stages of review. All intersections were included in the submitted traffic impact study.

4. **Following the connection of C-502 to A-55 (and a planned partial interchange at US 301/MD 5 and A-55) on the north and to McKendree Road on the south, the applicant, the applicant's heirs, successors and/or assignees shall close the US 301/MD 5/Chadds Ford Drive at-grade**

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intersection to traffic. Such closure shall include removal of the signal as directed by SHA following closure of the intersection. All closures, modifications and removals shall be at the sole expense of the applicant, the applicant's heirs, successors and/or assignees.

This condition places specific requirements on the future closure of the US 301/ MD 5/Chadds Ford Drive intersection. This condition was placed on the other portions of the Brandywine Village development when it was rezoned several years ago. This condition will be carried forward on all approvals. Nothing on this CDP prevents the implementation of this condition.

5. Vehicular access from the eastern portion of the site to the property to the north is supported and shall be demonstrated at the time of specific design plan.

This condition supports vehicular access from the eastern portion of the site to the property to the north, and requires that it be demonstrated in the future. Pursuant to this condition, this access has been included on the CDP. Additional analysis has occurred with this PPS, and pursuant to a Section 24-128(b)(9) an access easement is recommended to be recorded in land records to serve as a service road, extending from Chadds Ford Drive north through the subject site, to connect to the property abutting to the north and ultimately to A-55 in the future, if and when the property to the north develops.

The approval includes a consideration that access to the commercial portion of the site be moved westward along Chadds Ford Drive to be redirected to General Lafayette Boulevard "at a location determined to be of least environmental impact." As noted, while there was consideration of redirecting the access onto General Lafayette Boulevard, no locations were particularly favorable because any choice would have involved a substantial stream crossing. Directing access to the point of the existing median break along General Lafayette Boulevard would have involved a crossing at a point where the stream valley is particularly wide. In the end, Transportation Planning (M-NCPPC) and DPW&T determined that the commercial access should remain where proposed and is acceptable along Chadds Ford Drive.

Based on the preceding findings, adequate transportation facilities will exist pursuant to Section 24-124 of the Subdivision Regulations if the application is approved with conditions.

11. **Variation to Section 24-121(a)(3)**—At the Planning Board hearing on May 30, 2013, the applicant submitted a letter dated May 29, 2013 (Foster to Reidy) to the Planning Board that State Highway Administration is evaluating the feasibility of providing a limited temporary access on to US 301/MD 5 from the site. Based on the evidence the Planning Board approved variation request from Section 24-121(a)(3) with the following finding below.

The preliminary plan of subdivision (PPS) proposes one direct access onto Robert Crain Highway (US 301), a master plan freeway facility, from Parcel 3. The applicant filed a variation request

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from Section 24-121(a)(3) of the Subdivision Regulations to allow direct access onto an arterial or higher classification of roadway. Section 24-121(a)(3) states:

- (3) When lots are proposed on land adjacent to an existing or planned roadway of arterial or higher classification, they shall be designed to front on either an interior street or a service road. As used in this Section, a planned roadway or transit right-of-way shall mean a road or right-of-way shown in a currently approved State Highway plan, General Plan, or master plan. If a service road is used, it shall connect, where feasible, with a local interior collector street with the point of intersection located at least two hundred (200) feet away from the intersection of any roadway of collector or higher classification.**

Section 24-121(a)(3) establishes design guidelines for lots that front on arterial roadways. This section requires that these lots be developed to provide direct vehicular access to either a service road or an interior driveway when feasible. This design guideline requires that an applicant develop alternatives to direct access onto an arterial or higher classification of roadway. The applicant is requesting relief from this requirement to allow direct access onto US 301 from Parcel 3.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of a variation request. The applicant has filed a variation from Section 24-121(a)(3), which was submitted on April 23, 2013 and was heard on May 10, 2013 at the Subdivision and Development Review Committee (SDRC) meeting, as required by Section 24-113(b).

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

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

After consideration of the evidence, the Planning Board finds that access to the commercial development is constrained due to the unusual length and shape of the property sufficient to result practical difficulty to the applicant. The Planning Board further finds that a single, limited movement temporary point of access constructed in accordance with any conditions imposed by the State Highway Administration will ensure that substantial justice is done and the public interest secured.

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

The applicant proposes that access to the commercial parcels of this site be provided by means of a long north-south private roadway, and indicates that the driveway to US 301/MD 5 will function to relieve that access point. In a letter dated May 29, 2013 (Foster to Reidy), the State Highway Administration stated that it is evaluating the feasibility of providing a limited movement temporary access to US 301/MD 5. In the event the State Highway Administration determines that such an access can be approved, the Planning Board does not desire to preclude SHA's ability to approve the access because the variation requested by the applicant has been denied. Granting the variation subject to any conditions which SHA may impose will not be detrimental to public safety.

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

This property is unique to surrounding properties which front on US 301 on both the east and south sides of US 301 which are subject to this requirement because of the significant 100-year floodplain essentially dividing the property into two narrow land bays. The Planning Board determined that the conditions on which the variation is based are unique to the property because of the unusually lengthy frontage on US 301/MD 5 and the inability of the property to access to any other roadway. The Planning Board notes that a condition of the Basic Plan requires the property to provide for future access through the property to the north. Thus, the property was not intended to only be served by a single access point and a temporary access to US 301/MD 50 is appropriate.

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

Access to US 301/MD 5 is regulated by SHA who has stated that it is working with the applicant on a possible limited movement access. If access is granted by SHA, the approval of the variation will not constitute a violation of any law, ordinance or regulation.

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

In the justification, it is once again noted that the development of the site is controlled by the presence of the substantial floodplain, which creates a long and narrow developable area between US 301/MD 5 and the floodplain. The plan proposes six separate commercial parcels, each of which, as described by the applicant, will front on and be oriented to US 301/MD 5. The applicant notes that the transportation network is

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incomplete, and that the northernmost parcels may eventually have access to the north when the property to the north of this site is developed. In the absence of the proposed temporary driveway to US 301/MD5, the applicant contends that the attractiveness of the northernmost lots will be jeopardized. The Planning Board notes that the lots have been designed to front on a private driveway that serves as a service road. The conditions of the Basic Plan contemplate the extension of this access to the north, since the property cannot cross the floodplain to allow for alternate access. Temporary points of access have been permitted previously by the Planning Board to facilitate current development until the ultimate transportation system is constructed. The proposed temporary access should be permitted under the same conditions as the access to Chadds Ford Drive imposed by Condition 6 of A-9997-C, unless required to be closed earlier by SHA.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones, therefore, this condition does not apply.

Based on the preceding findings for each of the criteria, the Planning Board **APPROVED** the requested variation from Section 24-121(a)(3) to allow a single temporary limited movement access to US 301/MD 5 provided that SHA approves and access permit and, unless such permit requires the access to be closed earlier, the access shall be closed no later than the timeframe for closure of the Chadds Ford Drive/MD 301 intersection as set forth in Condition 6 of A-9997-C.

12. **Variation to Section 24-128(b)(7)(A)**—The preliminary plan of subdivision (PPS) proposes all streets and alleys as being private for the residential development portion of the site. The plan shows townhouse lots having frontage on private streets and access onto private alleys. The applicant filed a variation request from Section 24-128(b)(7)(A) of the Subdivision Regulations to allow all rights-of-way and alleys to be private for the residential development portion of the site. Section 24-128(b)(7)(A) states:

- (b) **The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:**
- (7) **In Comprehensive Design and Mixed Use Zones:**
- (A) **For land in the V-L, V-M, R-L, R-S, R-M, R-U, M-U-I, L-A-C, M-A-C, M-X-C, M-U-TC, and M-X-T Zones, the Planning Board**

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may approve a subdivision (and all attendant plans of development) with private roads to serve attached single-family dwellings, two-family dwellings, and three-family dwellings, but not single-family detached or multifamily dwellings, in accordance with the requirements of Subsections (e) and (f) of Section 27-433 of the Zoning Ordinance, except as hereinafter provided. In all of the above zones, and in the R-R Zone when developed as a cluster subdivision, the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way. The District Council may disapprove the inclusion of alleys during the consideration of the detailed site plan for a cluster subdivision. For the purposes of this Section, an "alley" shall mean a road providing vehicular access to the rear or side of abutting lots, and which is not intended for general traffic circulation.

The applicant is asking for relief from this requirement to allow townhouse lots which are served by alleys to have frontage on private rights-of-way instead of public rights-of-way.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of a variation request. The applicant has filed a variation from Section 24-128(b)(7)(A), which was submitted on January 17, 2013 and was heard on February 1, 2013 at the Subdivision and Development Review Committee (SDRC) meeting, as required by Section 24-113(b).

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

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

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Strict compliance with the requirements of Section 24-121 could result in a practical difficulty. The applicant's proposal cannot provide the density envisioned without alternative on-site circulation. The ability to develop rear-load garage townhouse units on private streets is appropriate in this case, due to the density and narrow shape of the developable areas.

- (1) **The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

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The use of alleys to serve garage townhouses is encouraged in dense environments. The current plan has the entire residential development served by a spine-type private street that is 26 feet in width curb-to-curb, which is consistent with the width of a public secondary residential street. Therefore, the private streets in this case are being constructed to a standard that is adequate to support the development and, therefore, the only change to this standard is the ownership of the street, the HOA in this case, which is not injurious to the health, safety, or welfare of the users.

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

Development of the site is controlled by the presence of the substantial floodplain, which creates a long and narrow developable area between General Lafayette Boulevard and the floodplain. The applicant contends that the loss of units which would result from the need to provide public rights-of-way within the site constitutes a particular hardship because the applicant could not develop to the density envisioned when the property was rezoned to a comprehensive design zone. The expectation of the amount of development that should occur on this property, coupled with the environmental impacts of the floodplain and the resulting linear nature of the developable area, is a situation which is unique to this property and not generally shared by other properties.

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

The variation to Section 24-121(a)(3) is unique to the Subdivision Regulations and is not regulated by any other law, ordinance, or regulations. Therefore, granting the variation will not violate any other legal requirement.

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

The uniqueness of the property is imposed by the presence of the substantial floodplain, which creates a long and narrow developable area for the residential portion of the property between General Lafayette Boulevard and the floodplain. The presence of the 100-year floodplain on this site is the result of topographical conditions. The land area is not sufficient in width to accommodate a public roadway with a 50-foot-wide right-of-way, particularly if the streetscape is not to be dominated by garages. This particular configuration of the developable area of this site resulting from the impact of the floodplain is unique to the surrounding properties and not shared by properties to the north or south, on the west side of Crain Highway (US 301).

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- (5) **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones, therefore, this condition does not apply.

Based on the preceding findings for each of the criteria, the Planning Board **APPROVED** the requested variation from Section 24-128(b)(7) of the Subdivision Regulations.

13. **Schools**—The residential portion of this preliminary plan was reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution CR-23-2003, and concluded the following:

Residential

**Impact on Affected Public School Clusters
 Single-family Attached Units**

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	192	192	192
Pupil Yield Factor	0.140	0.113	0.108
Subdivision Enrollment	27	22	21
Actual Enrollment	3,518	3,126	6,260
Total Enrollment	3,545	3,148	6,281
State Rated Capacity	3,753	4,198	7,862
Percent Capacity	94%	75%	80%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between the Capital Beltway I-95/495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,565 and \$14,682 to be paid at the time of issuance of each building permit.

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The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

Nonresidential

The commercial portion of this preliminary plan of subdivision has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001 and CR-38-2002), and concluded that this portion of the subdivision is exempt from a review for schools because it is a nonresidential use.

- 14. **Fire and Rescue**—The residential portion of this preliminary plan has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)–(E) of the Subdivision Regulations, and is within the recommended response times.

Residential

The proposed development is within the seven-minute required response time for the first due fire station using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire/EMS Department.

First Due Fire/EMS Company #	Fire/EMS Station	Address
40	Brandywine	14201 Brandywine Road

Pursuant to County Council Resolution CR-69-2006, the Prince George’s County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn fire and rescue personnel staffing levels.

The Fire/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005.

Nonresidential

The commercial portion of the preliminary plan has been reviewed for the adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)–(E) of the Subdivision Regulations.

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Fire/EMS Company #	Fire/EMS Station Name	Service	Address	Actual Travel Time	Travel Time Guideline	Within/Beyond
40	Brandywine	Engine	14201 Brandywine Road	3.80	3.25	Beyond
25	Clinton	Ladder Truck	9025 Woodyard Road	8.91	4.25	Beyond
40	Brandywine	Paramedic	14201 Brandywine Road	3.80	4.25	Within
40	Brandywine	Ambulance	14201 Brandywine Road	3.80	7.25	Within

The Special Projects Section has reviewed this plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Regulations.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed below, an automatic fire suppression system shall be provided in all new buildings proposed in this plan unless the Fire/EMS Department determines that an alternative method of fire suppression is appropriate.

Capital Improvement Program (CIP)

The Capital Improvement Program for Fiscal Years 2012–2017 proposes replacing the existing Brandywine Fire/EMS station with a new four-bay fire/EMS station.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the “Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure.”

15. **Police Facilities**—The subject property is located in Police District V, Clinton. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Prince Georg’s County Planning Department on January 17, 2013.

Residential

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 1/17/2013	1/2012-12/2012	9 minutes	15 minutes
Cycle 1			
Cycle 2			
Cycle 3			

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The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on January 30, 2013.

The Police Chief has reported that the Prince George's County Police Department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005. Pursuant to County Council Resolution CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24 122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

Nonresidential

The proposed development is within the service area of Police District V, Clinton. There is 267,660 square feet of space in all of the facilities used by the Police Department and the July 1, 2011 (U.S. Census Bureau) county population estimate is 871,233. Using 141 square feet per 1,000 residents, it calculates to 122,843 square feet of space for police. The current amount of space, 267,660 square feet, is within the guideline.

16. **Water and Sewer**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2008 *Water and Sewer Plan* placed this property in dormant water and sewer Category 3. An active Category 3 must be obtained for subject property for water and sewer through the administrative amendment procedure, prior to recordation of a final plat.

Water lines abut the property. Sewer lines are in close proximity to the property. Water and sewer line extensions may be required to service the proposed subdivision and must be approved by the Washington Suburban Sanitary Commission (WSSC).

17. **Health Department**—The Prince George's County Health Department has evaluated the proposed preliminary plan of subdivision and has no comments to offer.
18. **Public Utility Easement (PUE)**—In accordance with Sections 24-122(a) and 24-128(b)(12) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision (PPS) correctly delineates a ten-foot-wide public utility easement (PUE) along the public and private rights-of-way as requested by the utility companies.

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The PPS shows an existing AT&T easement labeled as "COMM" from Chadds Ford Drive to the northern property line which meanders within the right-of-way of General Lafayette Boulevard and onto the subject property. The AT&T easement was recorded on October 2, 1945 in Liber 795 and Folio 59. The AT&T easement is on proposed Parcel D and abuts Lots 1 and 161-176. The AT&T easement document states that AT&T has the "right to construct, operate, maintain, replace and remove such communications systems" within the easement, and reserves the rights of ingress and egress over and across the lands "to clear and keep clear all tress, roots, brush and other obstructions from the surface and subsurface of said strip." At the time of SDP, the AT&T easement should be maintained unimpeded or, at a minimum, improvements or structures such as sidewalks or stoops should cross the easement perpendicular and kept to a minimum, and not be located parallel within the easement. The easement indicates that, if AT&T should have a need to access their lines, the replacement of any improvements including sidewalks or stoops would be at the cost of the property owner or, in this case, the future homeowners. If the applicant indicates the inability to remove or reduce these encroachments from the easement area, then the easement may need to be relocated, with the agreement of the easement holder (AT&T).

19. **Historic**—A Phase I archeology survey was conducted on the subject property in February 2013. Based on the results of the Phase I survey, no cultural material was identified and no archeological sites were delineated. Due to the lack of cultural material or identified archeological sites, no further work was recommended on the subject property.
20. **Use Conversion**—The subject application is proposing 191 townhouse units and 218, 500 square feet of commercial space in the L-A-C Zone. Zoning Map Amendments A-9996-C and A-9997-C approved a mixed-use development for the site. If the applicant proposes a change of use for the subject site that does not comprise a mix of uses, then a new preliminary plan of subdivision should be required.
21. **Applicant Exhibit A**—In response to the staff recommended design concepts and standards for Comprehensive Design Plan CDP-1201 and the preliminary plan of subdivision (PPS), the applicant prepared Applicant Exhibit A (Exhibit A). That exhibit is in substantial conformance with the recommendations of staff for both the PPS and the CDP. Exhibit A has been reviewed by the Transportation, Environmental, and Urban Design sections which find that the concepts represented are consistent with the staff recommendations of the CDP and PPS. The exhibit relocates dwelling units to create a central recreational area, reduces the number of street connections onto General Lafayette Boulevard, maintains the street standards recommended with this PPS, and does not propose any additional impacts to the primary management area. These concepts, which are central to the approval for the PPS, are maintained with Applicant Exhibit A. The specific design plan should be consistent with Applicant Exhibit A, which staff could find to be in substantial conformance with this PPS.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Geraldo and Hewlett voting in favor of the motion, and with Commissioner Bailey absent at its regular meeting held on Thursday, May 30, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of June 2013.

Patricia Colihan Barney
Executive Director

By *Jessica Jones*
Jessica Jones
Planning Board Administrator

PCB:JJ:QN:arj

APPROVED AS TO LEGAL SUFFICIENCY.

Matt Kelly

M-NCPPC Legal Department

Date 6/12/13