



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 16-59

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File No. DSP-15038

## RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on May 5, 2016 regarding Detailed Site Plan DSP-15038 for Brooks Drive South, the Planning Board finds:

1. **Request:** The subject approval is for a detailed site plan (DSP) for infrastructure for 300 multifamily units.

2. **Development Data Summary:**

	EXISTING	APPROVED
Zone	R-10	R-10
Use	Vacant	Residential
Acreage	11.04	11.04
Parcel	2	2
No. of Multifamily Units	0	300

3. **Location:** The subject property is located in the northwestern quadrant of the intersection of Brooks Drive and Pennsylvania Avenue (MD 4). The project is also located in Planning Area 75A and Council District 7.
4. **Surrounding Uses:** The site is bounded to the south by Pennsylvania Avenue (MD 4), with multifamily residential land use in the Multifamily Medium Density Residential (R-18) Zone beyond; to the east by Brooks Drive, with multifamily residential land use in the Multifamily High Density Residential (R-10) Zone beyond; to the north by vacant land and multifamily residential land use in the R-10 Zone beyond; and to the west by Tenny Street, with multifamily residential land use in the One-Family Detached Residential (R-55) Zone beyond.
5. **Previous Approvals:** Preliminary Plan of Subdivision (PPS) 4-12002 was approved for the site on July 11, 2013. On July 25, 2015, the Prince George's County Planning Board adopted PGCPB Resolution No. 13-81 formalizing that approval. The site is also the subject of approved Stormwater Management Concept Plan 19543-2014-00, approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) on June 26, 2014, and valid until June 2017.



6. **Design Features:** The site is roughly trapezoidal in shape, with Brooks Drive, a 120-foot-wide right-of-way, bounding the property to the east. A paper street, known as Tenny Street, which bounds the property to the west, is askew from being parallel with Brooks Drive on the site's eastern boundary. Brooks Drive will provide the sole access to the property, and that driveway access and the portion of the roadway which will extend into the site is indicated on the subject plan, comprising the infrastructure that qualifies the subject project as a DSP for infrastructure, as defined in Section 27-285 of the Prince George's County Zoning Ordinance. See Finding 7 for a detailed discussion of the project's conformance with the requirements of the above-cited portion of the Zoning Ordinance.

The topography of the site is generally flat or gently sloping, but has some steep grades in the site's southeastern corner and along the northerly portion of the site, where it is bounded by the parking for a multifamily residential development. The northerly portion of the site is also where sensitive environmental features, such as 100-year floodplain, are present and a primary management area (PMA) has been defined.

As the subject application is being approved as a DSP for infrastructure pursuant to Section 27-286 (Limiting the review) of the Zoning Ordinance, design features such as architecture, landscaping, hardscaping, signage, and the details of site design have not been included in the submission for the project. These items will be addressed when the applicant submits a full-scale DSP for the project.

#### COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The approved multifamily residential use is a permitted use in the R-10 Zone, as described in the Zoning Ordinance in Section 27-441, Uses Permitted in Residential Zones. As the subject approval is for infrastructure only, conformance with the other applicable requirements of the Zoning Ordinance for the use in the R-10 Zone will be evaluated when a full-scale DSP for the project is submitted. These requirements include, but are not limited to Section 27-286, Limiting the review; Section 27-419(a), Bedroom percentages for multifamily dwellings; Section 27-420, Fences and walls; Section 27-439, R-10 (Multifamily High-Density Residential); Section 27-442, Regulations for the Multifamily High-Density Residential (R-10) Zone; Part 11, Parking and Loading; and Part 12, Signs, of the Zoning Ordinance.
8. **Preliminary Plan of Subdivision 4-12002:** Preliminary Plan of Subdivision 4-12002 was approved by the Planning Board on July 11, 2013, subject to 18 conditions. The Planning Board then adopted PGCPB Resolution No. 13-81 on August 7, 2013, formalizing that approval. The relevant conditions are included below in **boldface** type, followed by Planning Board comment:
  2. **Development of this site shall be in conformance with Stormwater Management Concept Plan 31374-2009-00 and any subsequent revisions.**



In a memorandum dated March 16, 2016, DPIE stated that the subject DSP-15038 is consistent with approved Stormwater Management Concept Plan 19543-2014-00 dated June 26, 2014, and valid until June 26, 2017. A representative of DPIE later confirmed that Stormwater Management Concept Plan 19543-2014-00 is a revision of Stormwater Management Concept Plan 31374-2009-00, which is in conformance with the requirement.

3. **Prior to approval of the detailed site plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide adequate, private recreational facilities in accordance with the standards outlined in the Parks and Recreation Facilities Guidelines. Private on-site recreational facilities shall be reviewed by the M-NCPPC Development Review Division as part of the Detailed Site Plan. An appropriate mix of recreational facilities shall be specified at that time.**

Conformance with this requirement will be reviewed when a full-scale DSP is reviewed for the subject project.

7. **Total development shall be limited to uses which generate no more than 156 (31 in; 125 out) AM peak-hour trips, and 180 (117 in; 63 out) PM peak-hour trips. Any development generating an impact greater than that identified herein shall require a new determination of the adequacy of transportation facilities and a new preliminary plan of subdivision.**

As the same number of multifamily units are approved in this DSP as was considered when PPS 4-12002 (PGCPB Resolution No. 13-81(C)) was approved, the subject project is staying within the established trip caps for the project.

9. **2010 Prince George's County Landscape Manual:** Conformance with the requirements of Section 4.1, Residential Requirements; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the *Prince George's County Landscape Manual* will be evaluated at the later time of review and approval of a full-scale DSP for the subject site.
10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The project is subject to the requirements of the Woodland and Wildlife Habitat Conservation Ordinance (WCO) because a PPS has been approved for the project under the current regulations. Conditions of this approval bring the project into conformance with the WCO.
11. **Prince George's County Tree Canopy Coverage Ordinance:** Conformance with the requirements of the Tree Canopy Coverage Ordinance will be evaluated at the time of a full-scale DSP.



12. **Further Planning Board Findings and Comments from Other Entities:** The DSP has been referred to the concerned agencies and divisions for comments. The referral comments are summarized as follows:

- a. **Transportation Planning**—The transportation-related conditions of PPS 4-12002 (PGCPB Resolution No. 13-81 (C)) and other general transportation-related issues will be addressed in later stages of the development review process.

However, the following transportation-related findings are hereby made in the subject approval:

**Site Access Evaluation**

The single-access point to Brooks Drive is adequate for the development and conforms to the transportation-related conditions of prior approvals.

**Master Plan Roads**

The site is adjacent to two roadways. Brooks Drive's previous master plan road designation has been removed. Pennsylvania Avenue (MD 4) is designated as an expressway. No structures or improvements are shown in its right-of-way.

The plan is acceptable and meets the Zoning Ordinance required findings for a DSP from a transportation-related perspective.

- b. **Subdivision Review**—The project is the subject of PPS 4-12002, which was approved with 18 conditions by the Planning Board on July 13, 2013 (PGCPB Resolution No. 13-81), and is valid through December 31, 2017. The PPS was approved for 5 parcels and 300 multifamily residential dwelling units. Any additional development will require a new PPS. Conditions 2 through 18 of that approval are discussed below:

2. **Development of this site shall be in conformance with Stormwater Management Concept Plan 31374-2009-00 and any subsequent revisions.**

General Note 10 notes a subsequent Stormwater Management Concept, 19543-2014-00, approved June 26, 2014.

3. **Prior to approval of the detailed site plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide adequate, private recreational facilities in accordance with the standards outlined in the *Park and Recreation Facilities Guidelines*. Private on-site recreational facilities shall be reviewed by the M-NCPPC Development Review Division as part of the Detailed Site Plan. An appropriate mix of recreational facilities shall be specified at that time.**



4. **The applicant and the applicant's heirs, successors, and/or assignees shall submit three original recreational facilities agreements (RFA) to the Development Review Division (DRD) for the construction of private recreational facilities on the subject property for approval prior to submission of the final plat. The RFA will list the facilities and establish triggers for construction. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records and the liber and folio reflected on the plat.**
5. **Prior to issuance of 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 for the construction of recreational facilities on subject property.**

As DSP-15038 is for infrastructure only, Conditions 3, 4, and 5 regarding recreational facilities do not apply.

6. **At the time of final plat, the applicant shall grant a ten-foot-wide public utility easement (PUE) along the public rights-of-way of Brooks Drive and Pennsylvania Avenue (MD 4) as delineated on the approved preliminary plan of subdivision.**

Detailed Site Plan DSP-15038 is for infrastructure only, so the applicant can obtain a grading permit. After the approval of DSP-15038, a record plat is required to be filed prior to approval of the grading permit. The record plat shall record the proposed parcels as outlots. The record plat shall reflect the ten-foot-wide public utility easement along the rights-of-way of Brooks Drive and Pennsylvania Avenue (MD 4).

7. **Total development shall be limited to uses which generate no more than 156 (31 in; 125 out) AM peak-hour trips, and 180 (117 in; 63 out) PM peak-hour trips. Any development generating an impact greater than that identified herein shall require a new determination of the adequacy of transportation facilities and a new preliminary plan of subdivision.**
8. **Prior to the issuance of a building permit for the subject property, the following road improvement shall (a) have full financial assurances, (b) have been designed per the appropriate operating agencies and (c) have been permitted for construction through the operating agency's access permit process: Construct northbound left-turn lane on Brooks Drive at the proposed access point. The left-turn lane shall be constructed in accordance with DPW&T standards.**



Detailed Site Plan DSP-15038 is for infrastructure only. Conditions 7 and 8 regarding trip cap and road improvements do not apply.

9. **At the time of final plat, the following notes shall be placed on the plat:**
- a. **"This property lies within the JLUS Interim Land Use Controls area as established by Subtitle 27, Part 18 (CB-3-2012)."**
  - b. **"Access is denied along the frontage of Pennsylvania Avenue (MD 4) and Brooks Drive with the exception of one access driveway along Brooks Drive unless one additional vehicular access is approved by DPW&T along Brooks Drive with the DSP/SE."**

The record plat shall reflect the notes requested in Condition 9.

10. **Nonresidential development on the subject property that significantly affect Subtitle 24 adequacy findings may require the approval of a new preliminary plan of subdivision prior to the approval of any building permits.**
11. **Prior to approval of the final plat, an executed private access easement agreement for Parcels 1–5 shall be submitted and approved by The Maryland-National Capital Park and Planning Commission (M-NCPPC). The easement is to provide inter-parcels connection and access to Brooks Drive. 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 if appropriate and be recorded in the land records of Prince George's County, and the liber and folio reflected on the final plat prior to recordation.**

Detailed Site Plan DSP-15038 is for infrastructure only. Condition 11 regarding the access easement does not apply.

12. **Prior to issuance of building permits, certification prepared by a professional engineer with competency in acoustical analysis using the certification template shall be submitted. The certification shall state that the interior noise levels have been reduced through the proposed building materials to 45 dBA Ldn or less.**

Detailed Site Plan DSP-15038 is for infrastructure only. Condition 12 regarding acoustical analysis does not apply.



14. 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 on the TCP2."**

15. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-001-13). The following note shall be placed on the final plat:

**"This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-001-13 or most recent revision), 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 CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."**

The record plat shall be in conformance with Type 1 Tree Conservation Plan TCP1-001-13, and shall reflect the notes requested in Conditions 14 and 15.

16. Prior to issuance of any permits which impact wetlands, wetland buffers, streams, or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
17. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area except for any 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."**



The record plat shall be in conformance with the conservation easement, and shall reflect the easement and note requested in Condition 17.

- 18. Prior to issuance of grading permits, the applicant shall submit evidence from the Prince George's County Health Department that the tires found on the property have been hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility.**

This condition will be reviewed at the time of grading permit.

Conditions 2, 3, and 7, relevant to this review, are discussed in detail in Finding 8. Conditions 4, 6, 9, 11, 14, and 17 are triggered prior to submission/ approval of a final plat for the subject site. Conditions 5, 8, 12, and 15 are triggered prior to issuance of building permits. Condition 16 is triggered at the time of issuance of permits which impact wetlands, wetland buffers, streams, or waters of the U.S. Condition 18 is triggered prior to the issuance of grading permits. Condition 10 applies only to nonresidential development which is not a part of the subject approval.

Failure of the DSP and record plat to match shall result in permits being placed on hold until the plans are corrected. The following subdivision-related conditions are included in this approval:

- (1) Prior to approval of the DSP, the following corrections should be made to the plans:
    - (a) Revise the plans to remove parcel labeling and reflect "Outlots 1-5."
    - (b) Add a General Note "Access along Brooks Drive is denied, with the exception of one driveway, to ensure the consolidation of vehicular traffic for all five future parcels, unless otherwise modified by the Department of Public Works and Transportation prior to approval of final plat."
  - (2) The conversion of outlots to buildable parcels in accordance with the approved PPS shall be done during the validity period of 4-12002 or a new PPS will be required.
  - (3) Prior to approval of permits for buildings or structures, a detailed site plan shall be approved and a new final plat required to remove the outlot designation.
- c. **Trails**—Issues regarding trails and pedestrian accessibility shall be addressed when a full-scale DSP is approved for the project.



- d. **Environmental Planning Section**—The Planning Board previously reviewed and approved a Type 1 Tree Conservation Plan, TCP1-001-13, for Brooks Drive South on July 11, 2013 and formalized the approval in the adoption of PGCPB Resolution No. 13-81. The Planning Board signed Natural Resources Inventory NRI-027-12 for the subject site on December 17, 2012. The project is subject to (not “grandfathered” from) the environmental regulations of Subtitles 24 and 27 of the County Code that came into effect on September 1, 2010 and February 1, 2012 because a PPS was approved for the site under the new regulations.

The subject site includes many regulated environmental features such as wetlands, streams, steep slopes, 100-year floodplain, primary management area (PMA) and associated buffers and drains to the north to the on-site Oxon Run which in turn drains into the Potomac River. The predominant soils found to occur on-site according to the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRS), Web Soil Survey (WSS), are the Croom gravelly sandy loam, Potomac issue complex, Udorthents reclaimed gravel pits, and Udorthents-Urban land complex. According to available information, Marlboro clay and Christiana complex are not identified on the property. According to the Sensitive Species Project Review Area (SSSPRA) layer prepared by the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered (RTE) species on or in the vicinity of this property. The site has frontage on Pennsylvania Avenue, a master planned expressway road. This roadway has been evaluated for traffic-generated noise as residential uses are proposed. Brooks Drive and Pennsylvania Avenue are not designated scenic or historic roadway. According to the 2005 *Approved Countywide Green Infrastructure Plan*, the site contains Regulated and Network Gap Areas within the designated network of the plan.

Environmentally-related Conditions 2 and 12–17 of the approval of PPS 4-12002 warrant discussion. (See Finding 7 of this approval for a discussion of Condition 2 of that approval). Conformance with the requirements of Conditions 12–17 will be evaluated at later stages of the development review process. The TCP2 is approved herewith the DSP, subject to conditions.

- e. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated March 16, 2016, DPIE offered comments regarding the requirements for needed roadway improvements for Brooks Drive, a County-maintained roadway, which will be enforced through DPIE’s separate permitting process. DPIE also stated that the subject DSP-15038 is consistent with Stormwater Management Concept Plan 19543-2014-00 dated June 26, 2015, and valid until June 26, 2017.
- f. **City of District Heights**—The City of District Heights did not provide comment regarding the project.
- g. **City of Capitol Heights**—In an e-mail dated April 8, 2016 a representative of the Town of Capitol Heights stated that the City had no comment on the subject project.



13. Based on the foregoing analysis and as required by Section 27-285(b)(3) of the Zoning Ordinance, the DSP for Infrastructure satisfies the site design guidelines as contained in Section 27-274 of the Zoning Ordinance, prevents off-site property damage, and prevents environmental degradation to safeguard the public's health, safety, welfare, and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge.
14. Section 27-285(b)(4) of the Zoning Ordinance requires that a DSP demonstrate that regulated environmental features have been preserved and/or restored to the fullest extent possible. Based on the review by the Planning Board, as stated in Finding 12(d), this DSP is in full conformance.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Type 2 Tree Conservation Plan (TCP2-005-2016) and further APPROVED Detailed Site Plan DSP-15038 for the above-described land, subject to the following conditions:

1. Prior to certificate approval of this detailed site plan (DSP), the applicant shall provide the required information or make the following revisions to the plans:
  - a. The Type 2 tree conservation plan (TCP2) shall be revised as follows:
    - (1) Revise the approval block to the new approval block and include the associated case number.
    - (2) The existing woodland limits shall be shown on Sheets 1 through 4.
    - (3) The 65 dBA Ldn noise contours shall be shown on Sheets 1 through 4.
    - (4) The 65 dBA Ldn noise contour symbol shall be added to the legend on Sheets 1 through 4.
    - (5) The general notes shall be moved to Sheet 5.
    - (6) The word "Freeway" shall be included after "Pennsylvania Avenue" on Sheets 2 and 3.
    - (7) The revised plans shall be signed and dated by the qualified professional who prepared the plans.
  - b. The following corrections shall be made to the plans:
    - (1) The parcel labeling shall be replaced with "Outlots 1-5."



- (2) A general note shall be added to the plans stating that:

"Access along Brooks Drive is denied, with the exception of one driveway, to ensure the consolidation of vehicular traffic for all five future parcels, unless otherwise modified by the Department of Public Works and Transportation prior to approval of final plat."

2. The conversion of outlots to buildable parcels in accordance with the approved preliminary plan of subdivision (PPS) shall be done during the validity period of PPS 4-12002, or a new PPS will be required.
3. Approval of permits for buildings or structures not otherwise shown on the detailed site plan (DSP) for infrastructure shall require approval of a DSP and a new final plat to remove the outlot designation.

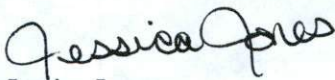
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

\* \* \* \* \*

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 Shoaff, seconded by Commissioner Geraldo, with Commissioners Shoaff, Geraldo, Bailey, and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, May 5, 2016, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 26th day of May 2016.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:RG:rpg

APPROVED AS TO LEGAL SUFFICIENCY

  
M-NCP&C Legal Department

Date 5/12/16