



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2021-141

File No. 4-19052

R E S O L U T I O N

WHEREAS, A Determined Seed 1, LLC is the owner of a 15.09-acre parcel of land known as Byrne Manor Lot 1, said property being in the 12th Election District of Prince George's County, Maryland, and being zoned Mixed Use Transportation Oriented (M-X-T) and Development District Overlay (D-D-O); and

WHEREAS, on September 7, 2021, A Determined Seed 1, LLC filed an application for approval of a Preliminary Plan of Subdivision for 9 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-19052 for The Promise 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 November 18, 2021, 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 November 18, 2021, 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 Type 1 Tree Conservation Plan TCP1-015-2021, and APPROVED a Variance from Section 25-122(b)(1)(G), and further APPROVED Preliminary Plan of Subdivision 4-19052, including a Variation from Section 24-128(b)(12), for 9 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
 - a. Revise General Note 23 to remove the building square footages.
 - b. Remove the limit of disturbance line from the plan.
2. A substantial revision to the mix of uses on the subject property that affects Subtitle 24 adequacy findings shall require approval of a new preliminary plan of subdivision, prior to issuance of any permits.
3. Development of the site shall be in conformance with the approved Stormwater Management Concept Plan, 36900-2020-00, and any subsequent revisions.

4. Prior to approval of a final plat:
 - a. The final plat shall include the grant of public utility easements (PUEs) along and/or within the public and internal private right-of-way, in accordance with the approved preliminary plan of subdivision, and shall note that a variation for the location and width of the PUE along the private right-of-way has been approved.
 - b. The applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a community association has been established for the subdivision. The draft covenants shall be submitted to the Development Review Division of the Prince George's County Planning Department along with the final plat for review, to ensure that the rights of the Maryland-National Capital Park and Planning Commission are included. The Liber/folio of the declaration of covenants shall be noted on the final plat, prior to recordation.
5. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the community association, land, as identified on the approved preliminary plan of subdivision and detailed site plan. Land to be conveyed shall be subject to the following:
 - a. A copy of the recorded deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division, of the Maryland-National Capital Park and Planning Commission.
 - b. All waste matter of any kind shall be removed from the property, 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 or soil filling, other than the placement of fill material associated with permitted grading operations that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
 - d. Any disturbance of land to be conveyed to the association shall be in accordance with an approved site plan and tree conservation 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.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to the association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division of the Prince George's County Planning Department.

- f. The Prince George's County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.
6. Total development within the subject property shall be limited to uses which generate no more than 492 AM peak-hour trips and 523 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein above shall require approval of a new preliminary plan of subdivision, with a new determination of the adequacy of transportation facilities.
7. Prior to signature approval of the preliminary plan of subdivision, the Type 1 tree conservation plan shall be revised as follows:
 - a. Add the property owner notification block to Sheets 2 and 3; and
 - b. Add the following note to the plan under the specimen tree table:

“NOTE: This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Planning Board on (ADD DATE):
The removal of one specimen tree (Section 25-122(b)(1)(G), ST1, a 33-inch White Oak, ST2, a 49-inch Black Oak, ST8, a 37-inch White Oak, ST9, a 37-inch Tulip Poplar, ST16, a 38-inch Tulip Poplar, and ST23, a 32-inch Chestnut Oak.”
 - c. Have the revised plan signed and dated by the qualified professional preparing the plan.
8. The conservation easement shall contain the delineated 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 Maryland-National Capital Park and Planning Commission Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
9. Development of this subdivision shall be in conformance with an approved Type 1 tree conservation plan (TCP1-015-2021). The following notes shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-015-2021), or as modified by a future 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 Conservation/Tree Preservation Policy.”

10. Prior to the issuance of permits for this subdivision, a Type 2 tree conservation plan shall be approved. The following note shall be placed on the final plat of subdivision:

“This plat is subject to the recordation of a Woodland Conservation Easement pursuant to Section 25-122(d)(1)(B) with the Liber and folio reflected on the Type 2 Tree Conservation Plan, when approved.”
11. Prior to acceptance of a detailed site plan, the package shall contain an arborist’s evaluation, prepared in accordance with Part B, Section 5.2.3C of the Environmental Technical Manual, for all specimen trees whose critical root zones cannot be wholly preserved. Every effort shall be made to preserve the specimen trees not approved for removal with the preliminary plan of subdivision.
12. Prior to the approval of any building permit for the subject property, the applicant and the applicant’s heirs, successors, and/or assignees shall demonstrate that following required adequate pedestrian and bikeway facilities have (a) full financial assurances, (b) have been permitted for construction through the applicable operating agency’s access permit process, and (c) have an agreed-upon timetable for construction and completion with the appropriate operating agency, in accordance with the applicant’s bicycle and pedestrian impact statement submission and Section 24-124.01 of the Prince George’s County Subdivision Regulations:
 - a. Upgrade 36 existing streetlights within a half-mile radius of the subject site from high pressure sodium to light-emitting diode.
 - b. Upgrade approximately 265 linear feet of sidewalk gaps along Wheeler Road between Southern Avenue and Wheeler Hills Road.
 - c. Install one bikeshare station with six bicycles and eleven docks. The bike share station shall be located within a dedicated public access easement or within the public right-of-way and within a half mile of the subject site, with the final location and vendor to be determined by the Prince George’s County Department of Public Works and Transportation.
13. The applicant shall provide a bicycle and pedestrian facilities plan that illustrates the location, limits, specifications, and details of the pedestrian and bicyclist adequacy improvements approved with Preliminary Plan of Subdivision 4-19052, consistent with Section 24-124.01(f) of the Prince George’s County Subdivision Regulations as part of any Detailed Site Plan submission.
14. Prior to acceptance of any detailed site plan, the applicant and the applicant’s heirs, successors, and/or assignees shall provide plans that illustrate the location, limits, specifications, and details displaying the following facilities, unless modified by the Prince George’s County Department of Permitting, Inspections and Enforcement, with written correspondence:

- a. Standard sidewalks along both sides of all new roads.
 - b. Crosswalks at all locations where sidewalks intersect with roads.
 - c. Bicycle parking throughout the development.
15. In accordance with Section 24-135(b) of the Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall provide adequate on-site indoor and outdoor recreational facilities.
 16. At the time of detailed site plan review, the on-site indoor and outdoor recreational facilities shall be reviewed by the Urban Design Section of the Prince George's County Planning Department, Development Review Division for adequacy and proper siting, in accordance with the Park and Recreation Facilities Guidelines and the 2014 *Approved Southern Green Line Station Area Sector Plan and Sectional Map Amendment*.
 17. The applicant and the applicant's heirs, successors, and/or assignees shall submit three original executed recreational facilities agreements (RFAs) to the Development Review Division (DRD) of the Prince George's County Planning Department, for construction of on-site recreational facilities, for approval, prior to a submission of a final record plat. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records and the Liber and folio of the RFA shall be noted on the final plat.
 18. 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 construction of recreational facilities, prior to issuance of building permits.

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 with conditions, 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.
2. **Background**—The subject property is located approximately 0.4 miles northeast of the intersection of Southern Avenue and Wheeler Road. The property consists of 15.09 acres and is currently comprised of one lot known as Byrne Manor Lot 1, described in Plat Book WWW 50 page 57, and one parcel known as Parcel 133, described by deed in the Prince George's County Land Records in Liber 42005 at folio 120. The site is within the Mixed Use-Transportation Oriented (M-X-T) and Development District Overlay (D-D-O) Zones. The site is subject to the 2014 *Approved Southern Green Line Station Area Sector Plan and Sectional Map Amendment* (sector plan). This preliminary plan of subdivision (PPS) proposes nine parcels for the development 1,032 multifamily units (148 assisted living, 397 senior adults, 487 market-rate), 28,775 square feet of commercial use, and 10,894 square feet of institutional use. The subject property abuts Southern Avenue, which is entirely located in the District of Columbia, and is

under the authority of the District Department of Transportation (DDOT). The PPS includes two points of access from Southern Avenue. The existing site is currently vacant. The proposed development is subject to a PPS, in accordance with Section 24-107 of the Prince George's County Subdivision Regulations.

Section 25-122(b)(1)(G) of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) requires that the preservation of specimen trees, champion trees, or trees that are associated with an historic site or structure have their critical root zones protected through judicious site design. The applicant requested approval of a variance for the removal of six specimen trees, which is discussed further in this resolution.

Section 24-128(b)(12) of the Subdivision Regulations requires 10-foot-wide public utility easements (PUE) on either side of private rights-of-way. The applicant requested to provide a seven-foot-wide PUE along a proposed private right-of-way, as well as having no PUE along other private rights-of-way within the site. The variation is discussed further in this resolution.

3. **Setting**—The property is located on Tax Map 87 in Grids C2 and D2 and is within Planning Area 76A. The abutting properties to the north, east, and south of the site are vacant and located within the M-X-T Zone. The abutting property to the southwest is located within the Multifamily Medium Density Residential Zone and consists of multifamily dwellings. The Southern Avenue Metro Rail Station is located approximately 500 feet northeast of the site. As discussed above, the subject property abuts Southern Avenue to the west, which is located in the District of Columbia. The properties beyond Southern Avenue consist of a hospital and vacant land.
4. **Development Data Summary**—The following information relates to the subject PPS application and the proposed development.

	EXISTING	APPROVED
Zone	M-X-T/D-D-O	M-X-T/D-D-O
Use(s)	Vacant	Multifamily (1,032 dwelling units) Commercial (28,775 sq. ft.) Institutional (10,894 sq. ft.)
Acreage	15.09	15.09
Lots	1	0
Parcels	1	9
Dwelling Units	N/A	1,032
Gross Floor Area	N/A	36,669
Variance	No	Yes (Section 25-122(b)(1)(G))
Variation	No	Yes (Section 24-128(b)(12))

There are nine parcels proposed with this PPS which includes one road parcel (Parcel A), two open space parcels (Parcels B and C), and six development parcels (Parcels 1-6). The road and open space parcels are to be conveyed to a community association.

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case, as well as the applicant's variation request from Section 24-128(b)(12) were heard at the Subdivision and Development Review Committee (SDRC) meeting on September 17, 2021.

5. **Previous Approvals**—Special Exception SE-612 was approved by the Prince George's County District Council on November 18, 1960, for the construction of a privately owned community swimming pool. SE-613 was approved by the District Council on November 18, 1960, for the construction of a country club, with a clubhouse and playground. SE-2394 was approved by the District Council on August 19, 1970, for construction of a storage room addition to the existing building. All prior development on the subject site has been razed.

The subject site includes one existing lot (Lot 1) that is the subject of a final plat of subdivision, recorded in Plat Book WWW 50 page 57. A new final plat will be required pursuant to this PPS, and will supersede the prior final plat of subdivision approval for Lot 1.

6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the sector plan are evaluated, as follows:

Plan 2035

The application is in the Southern Avenue Metro Neighborhood Center. The vision for neighborhood centers is lower density mixed-use development that is primarily residential, with neighborhood-serving retail and office uses.

Sector Plan Conformance

The sector plan recommends mixed use land uses on the subject property.

SMA/Zoning

The Southern Green Line Sectional Map Amendment reclassified the subject property from the Commercial Office Zone to the M-X-T and D-D-O Zones. The development standards of the D-D-O Zone will apply and be reviewed with the detailed site plan (DSP) for the subject site.

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this PPS conforms to the sector plan, as evaluated in this finding and throughout this resolution.

7. **Stormwater Management**—A stormwater management (SWM) concept approval letter and associated plans (36900-2020-00) were submitted with the subject PPS. The approval was issued on July 23, 2021, from the Prince George County Department of Permitting, Inspections and Enforcement (DPIE), and proposes to construct 26 micro bioretention facilities, one green roof, and six subsurface filters. The concept plan shows one outfall structure to the northeast of the facility that outlets into an ephemeral stream channel that drains into the on-site stream system. No SWM fee for on-site attenuation or quality control measures is required. In accordance with Section 24-130 of the Subdivision Regulations, development of the site shall conform with the approved SWM concept plan and any subsequent revisions, to ensure no on-site or downstream flooding occurs.

8. Parks and Recreation—This PPS was reviewed for conformance with the Subdivision Regulations and the sector plan pertaining to public parks and recreational facilities.

Nearby parks include the Hillcrest Heights Community Center and Oxon Run Community Park located approximately 0.50 miles to the north on Southern Avenue. These facilities provide ball fields, tennis courts, indoor basketball courts, playgrounds, trails, a gym, and indoor meeting and activity space. Barnaby Run Stream Valley Park is an unimproved series of tracts located approximately 0.75 miles south of this site, on Wheeler Road, and Oxon Run Park, a District of Columbia Parks and Recreation property, is located approximately 0.50 miles to the southeast.

The sector plan indicates that a survey of public facilities and parks has found that the project area has vast areas of land owned by the National Park Service and the Maryland-National Capital Park and Planning Commission (M-NCPPC); however, most of this land is either inaccessible or undeveloped. Nearly all the open space owned by M-NCPPC is land that follows stream corridors or is protecting steep slopes from development and provides little active recreation opportunities for area residents. The sector plan states that there is a dearth of neighborhood parks and no urban parks in the project area. The plan contains goals for public facilities and parks including “Establish urban parks and plazas as amenities to add value and provide adequate open space for higher intensity development.”

The vision recommends including small urban parks and plazas near the [rail] stations to help create new space for community life organized around walking, indicating that:

- **Outdoor amenity space may be met in one contiguous open area or in multiple open areas on the lot; however, to receive credit the area must be at least ten feet in width and length.**
- **Examples of active outdoor amenities include a playground, athletic court, pool deck, spray deck or plaza, promenade, or dog park.**
- **Passive park areas must include improvements such as trails, paths, and seating areas. Formal or informal gardens, as well as greenbelts, are considered acceptable outdoor amenity areas.**
- **Outdoor amenity space may be located at or above grade. Above-grade examples include a rooftop deck or terrace, rooftop patio or fitness station.**
- **Outdoor amenity space cannot be parked or driven upon, except for emergency access and permitted temporary events.**

Mandatory dedication of parkland, pursuant to Section 24-134(a) of the Subdivision Regulations, provides for the dedication of land, the payment of a fee-in-lieu, or on-site recreational facilities, as this development consists of a residential subdivision. Based on the proposed density of development, 15 percent of the net residential lot area could be required to be dedicated to

M-NCPPC for public parks, which equates to 2.13 acres. The general notes on the PPS indicated that applicant has opted to provide on-site recreational facilities. An amenity cost estimate sheet was provided with a table showing the square footage of amenity space and the cost per square foot for each building; however, there are no open space or recreational areas represented on the PPS plan. The cost estimate sheet did not provide any details on the amenities to be provided, nor did the statement of justification (SOJ) provided by the applicant.

The SOJ does not discuss the recreational amenities proposed, nor the open space and recreational goals or vision of the sector plan. With the development of this site utilizing a mix of residential, commercial, and institutional uses, it is important to establish a community with a strong emphasis on the public realm by creating plazas, pocket parks, and/or open space to be shared by residents, employees, students, and visitors. The plan does not clearly show how the open space or recreational goals will be implemented with this proposal; however, building and paving details and floor plans are expected to be provided at the time of DSP review. The applicant shall show and label the areas provided for open space and recreation in accordance with Park and Recreation Facilities Guidelines, with consideration given to the goals of the sector plan, at the time of DSP.

The applicant's proposed private on-site recreational facilities will meet the requirements of Section 24-134(a).

9. **Bicycle and Pedestrian**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the sector plan to provide the appropriate pedestrian and bicycle transportation facilities.

Existing Conditions, Sidewalks and Bike Infrastructure

The subject site is located approximately 0.40 miles northeast of the intersection of Southern Avenue and Wheeler Road. The site is unimproved aside from a five-foot-wide sidewalk located along the subject property's frontage of Southern Avenue. There are currently no bicycle facilities built on the subject property. The area under review for the subject application is located within a 2035 General Plan Center and therefore, is subject to Section 24-124.01 of the Subdivision Regulations and the "Transportation Review Guidelines – Part 2."

Review of Master Plan Compliance

This development case is subject to the MPOT, which does not display any recommended bicycle or pedestrian facilities on site.

The MPOT provides policy guidance regarding multimodal transportation, and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling:

Policy 1: Provide standard sidewalks along both of all new road construction within the Developed and Developing Tiers.

Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

Policy 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

Policy 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.

The Transportation Systems section of the sector plan makes the following statement regarding pedestrian and bicycle facility improvements along the subject property's frontage of Southern Avenue:

It should be noted that DDOT owns, designs, and maintains the whole right of way in the station area. Recommended improvements to Southern Avenue are in support of DDOT's current efforts to create an improved bicycle and pedestrian environment along Southern Avenue (page 174).

Policy recommendations to increase multimodal mobility in the Southern Avenue Station area include:

- 1. Support implementation of DDOT's Southern Avenue station redesign to improve pedestrian and bicycle facilities in the station area (page 176).**

The subject property fronts along Southern Avenue, which falls under the purview of DDOT regarding pedestrian and bicycle improvements in the right of way. Typically, pedestrian and bicycle improvements are conditioned at the PPS stage of development, specifically along roads that provide frontage to the property under review. DDOT's redesign of the frontage of Southern Avenue in the immediate vicinity of the subject property to improve pedestrian and bicycle facilities is found to be acceptable.

The property falls in the developing tier and sidewalks are required on both sides of all roads, public or private, excluding alleys. The applicant's submission includes a bicycle and pedestrian exhibit indicating all on-site pedestrian and bicycle improvements, including sidewalks along both sides of all new roads, crosswalks at all locations where sidewalks intersect with roads, and bicycle parking throughout the development.

The applicant shall provide a bicycle and pedestrian facilities plan as part of the DSP submission, which shows details of all on-site and offsite pedestrian and bicycle improvements as required in Section 24-124.01(f) of the Subdivision Regulations. At the time of DSP, specific details and placement of the required pedestrian and bicycle improvements will be further reviewed.

Adequacy of On-Site Facilities

The applicant has included an exhibit detailing the proposed on-site facilities, which includes sidewalks along both sides of all new roads, crosswalks at all locations where sidewalks intersect with roads, and bicycle parking throughout the development.

The proffered on-site sidewalks, crosswalks, and bicycle parking facilities will contribute to meeting the pedestrian and bicycle adequacy findings pursuant to Section 24-124.01(b) of the Subdivision Regulations.

Adequacy of Off-Site Facilities

The subject application includes proposed off-site bicycle and pedestrian adequacy improvements pursuant to Section 24-124.01(c) of the Subdivision Regulations. The cost cap for the site is \$323,484. This number was developed by multiplying the nonresidential square footage by \$0.35 (\$13,884.15), adding the number of dwelling units multiplied by \$300 (\$309,600), and then adjusting the total amount for inflation based on the United States Bureau of Labor Statistics Cost Price Index between June 2013, the effective date of the adequacy legislation, and today.

Demonstrated Nexus Finding

The applicant has proffered to upgrade 36 existing streetlights within a half-mile radius of the subject site from high pressure sodium to light-emitting diode, upgrade 265 linear feet of sidewalk gaps along Wheeler Road between Southern Avenue and Wheeler Hills Road, and install one Capital Bikeshare Station with six bicycles and eleven docks. The specific location of these improvements is contained within the applicant's bicycle and pedestrian impact statement.

The applicant's proffer to fulfill the off-site pedestrian and bicycle improvements are all within 0.25 miles of the subject property. The off-site pedestrian and bikeway facilities proffered by the applicant will improve pedestrian and bicycle movement in the immediate vicinity of the subject property while also complementing nearby existing commercial development.

The location of the bikeshare station shall be within a dedicated public access easement or within the public right-of-way within a half mile of the subject site as required in accordance with the Subdivision Regulations. The current location of the bike share station, within the private right-of-way on-site, may be the most appropriate location and fulfills the intent of the requirements of Section 24-124.01 for off-site facilities. However, if it remains in the proposed location, it must be established as within a dedicated public access easement pursuant to Section 24-124.01(e)(2). The exact location of the bike share station shall be approved by the Prince George's County Department of Public Works and Transportation.

Pursuant to Section 24-124.01, there is a demonstrated nexus between the proffered and required pedestrian and bikeway facilities for the proposed development and nearby destinations. The proffered and required off-site facilities will contribute to meeting the pedestrian and bicycle adequacy findings pursuant to Section 24-124.01(b) and are within the cost cap pursuant to Section 24-124.01(c).

Based on the preceding findings, the pedestrian and bicycle transportation facilities will serve the proposed subdivision, meet the findings required by Subtitle 24 of the Prince George's County Code, and conform to the sector plan and the MPOT.

10. **Transportation**—Transportation-related findings related to adequacy are made with this application, along with any determinations related to dedication, access, and general subdivision layout. Access and circulation are proposed by means of private rights-of-way.

Analysis of Traffic Impacts

The subject property is currently unimproved and is located within Transportation Service Area 2, as defined in Plan 2035. As such, the subject property is evaluated according to the following standards:

Links and Signalized Intersections: Level-of-service D, with signalized intersections operating at a critical lane volume of 1,450 or better. Mitigation per Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any transportation service area subject to meeting the geographical criteria in the "Transportation Review Guidelines - Part 1- 2012" (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:

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

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

To evaluate the impact of the proposed development, the applicant provided a July 2021 traffic impact study. The findings outlined below are based upon a review of these materials and analyses consistent with the Guidelines. The table below shows the intersections deemed to be critical, as well as the levels of service representing existing conditions.

EXISTING CONDITIONS		
Intersections	AM	PM
	(LOS/CLV) delay	(LOS/CLV) delay
Southern Avenue and 23 rd Parkway-23 rd Street	A/334	A/652
Southern Avenue and Mississippi Avenue	A/362	A/776
Southern Avenue and WMATA-Valley Terrace	A/228	A/364
Southern Avenue and Southern Avenue Park & Ride	A/226	A/398
Southern Avenue and Driveway-Site Access 2 *	11.6 seconds	21 seconds
Southern Avenue and 13 th Street	A/302	A/544
Southern Avenue and Wheeler Road	A/690	B/1028
* Unsignalized intersections. In analyzing two-way stop-controlled intersections, a three-step procedure is undertaken 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 standard. According to the Guidelines, all three tests must fail in order to require a signal warrant study.		

The traffic impact study identified four background developments whose impact would affect some, or all of the study intersections. In addition, a growth of 0.5 percent over six years was also applied to the traffic volumes.

BACKGROUND CONDITIONS		
Intersections	AM	PM
	(LOS/CLV) delay	(LOS/CLV) delay
Southern Avenue and 23 rd Parkway-23 rd Street	A/360	A/688
Southern Avenue and Mississippi Avenue	A/378	A/815
Southern Avenue and WMATA-Valley Terrace	A/251	A/388
Southern Avenue and Southern Avenue Park & Ride	A/249	A/419
Southern Avenue and Driveway-Site Access 2 *	11.9 seconds	23.3 seconds
Southern Avenue and 13 th Street	A/327	A/576
Southern Avenue and Wheeler Road	A/747	B/1092
* Unsignalized intersections. In analyzing two-way stop-controlled intersections, a three-step procedure is undertaken 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 standard. According to the Guidelines, all three tests must fail in order to require a signal warrant study.		

Using the trip rates from the Guidelines, as well as the *Trip Generation Manual, 10th Edition* (Institute of Transportation Engineers - ITE) the study has indicated that the subject application represents the following trip generation:

Table 1 - Trip Generation							
		AM Peak			PM Peak		
		In	Out	Total	In	Out	Total
Retail	50,000 sq. ft.	110	67	177	156	169	325
	<i>Less internal capture</i>	-4	-2	-6	-16	-44	-60
	Total trips	106	65	171	140	125	265
	<i>Less pass-by (40 percent)</i>	-42	-26	-68	-56	-50	-106
	Net Retail trips	64	39	103	84	75	159
Day-Care (Students)	150 estimate	63	57	120	58	65	123
	<i>Less pass-by (40 percent)</i>	-25	-23	-48	-23	-26	-49
	Net Day Care	38	34	72	35	39	74
Asst. Living (ITE-254)	100 beds	12	7	19	10	16	26
Senior Adult Housing	500 units	25	40	65	50	30	80
Apartments – mid-rise	750 units	78	312	390	293	157	450
	Total Residential Trips	103	352	455	343	187	530
	<i>Less internal capture</i>	-2	-4	-6	-44	-16	-60
	Total off-site trips	101	348	449	299	171	470
	<i>Less transit credit -15 percent</i>	15	52	67	45	26	71
	Net Residential Trips	86	296	382	254	145	399
Total new trips – off-site		200	376	576	383	275	658

The table above indicates that the development, as proposed, will be adding 576 AM and 658 PM net new peak trips.

A third analysis depicting total traffic conditions was done, yielding the following results:

TOTAL CONDITIONS		
Intersections	AM	PM
	(LOS/CLV) delay	(LOS/CLV) delay
Southern Avenue and 23 rd Parkway-23 rd Street	A/445	A/801
Southern Avenue and Mississippi Avenue	A/526	B/1003
Southern Avenue and WMATA-Valley Terrace	A/354	A/494
Southern Avenue and Southern Avenue Park & Ride	A/352	A/519
Southern Avenue and Driveway-Site Access 1 *		
Tier 1: HCS Delay test	78.4 seconds	>200 seconds
Tier 2: Minor Street Volume	>100	>100
Tier 3: CLV	A/589	B/1011
Southern Avenue and Driveway-Site Access 2 *		
Tier 1: HCS Delay test	22.7 seconds	59.4 seconds
Tier 2: Minor Street Volume	>100	>100
Tier 3: CLV	A/371	A/583
Southern Avenue and 13 th Street	A/405	A/652
Southern Avenue and Wheeler Road	A/872	B/1268
* Unsignalized intersections. In analyzing two-way stop-controlled intersections, a three-step procedure is undertaken 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 standard. According to the Guidelines, all three tests must fail in order to require a signal warrant study.		

The results under total traffic conditions show that the intersections will all operate adequately. It is noted that all the analyses were predicated on the densities and trip generation outlined in Table 1 above. However, the final revised plan shows a reduction in the overall densities that were not reflected in the traffic impact study. Table 2 below represents the revised trip generations.

Table 2 - Trip Generation (revised)							
		AM Peak			PM Peak		
		In	Out	Total	In	Out	Total
Retail Supermarket	10,275 sq. ft.	97	60	157	48	53	101
	18,500 sq. ft.	43	28	71	113	108	221
	<i>Less internal capture</i>	-2	-1	-3	-16	-42	-58
	Total trips	138	87	225	145	119	264
	<i>Less pass-by (40 percent)</i>	-55	-35	-90	-58	-48	-106
	Net Retail trips	83	52	135	87	71	158
Day-Care (Students)	150 estimate	63	57	120	58	65	123
	<i>Less pass-by (40 percent)</i>	-25	-23	-48	-23	-26	-49
	Net Day Care	38	34	72	35	39	74
Asst. Living (ITE-254)	148 beds	18	10	28	14	24	38
Senior Adult Housing	397 units	20	32	52	40	24	64
Apartments – mid-rise	497 units	51	202	253	190	102	292
	Total Residential Trips	71	234	305	230	128	356
	<i>Less internal capture</i>	-1	-2	-3	-42	-16	-58
	Total off-site trips	70	232	302	188	110	298
	<i>Less transit credit -15 percent</i>	-10	-35	-45	-28	-17	-45
	Net Residential Trips	60	197	257	160	93	253
Total new trips – off-site (Trip Cap)		199	293	492	296	227	523

Because the traffic impact study analyses were based on a higher density, and all the intersections were found to be operating at an acceptable level of service, all the critical intersections will continue to operate with acceptable levels of service with a reduced density. However, the trip cap should be based on the actual densities proposed. Consequently, a trip cap of 492 AM and 523 PM peak trips will be required.

The traffic impact study provided by the applicant is found to be acceptable. Regarding site layout, the overall proposal is also found to be acceptable. A turning template that simulates the movement of a typical fire department truck was also submitted. The template demonstrates that such a vehicle would be able to navigate its' way throughout the proposed development.

Master Plan and Site Access

The subject property is located in an area where the development policies are governed by the sector plan. The subject property is also governed by the MPOT. There are no master plan roads on which the proposed development will have an impact. The property fronts on

Southern Avenue, a four-lane undivided road that is located entirely in the District of Columbia. No additional right-of-way will be required of the applicant.

The PPS includes an internal network of private streets, which access the public right-of-way of Southern Avenue. These private streets are encompassed by proposed Parcel A. This private right-of-way is to be conveyed to the community association to ensure its maintenance and availability to all development parcels within the subdivision. Access via private roads to serve the development lots proposed in this application is permissible in the D-D-O Zone, pursuant to Section 24-128(b)(8) of the Subdivision Regulations.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, as required, in accordance with Section 24-124 of the Subdivision Regulations.

11. **Schools**—This PPS was reviewed for impact on school facilities, in accordance with Section 24-122.02 of the Subdivision Regulations, Prince George’s County Council Resolutions CR-23-2001 and CR-38-2002, *Amended Adequate Facilities Regulation for Schools*. Elderly housing operated in accordance with State and Federal Fair Housing law is exempt from the schools’ test. Thus, the proposed 397 senior units and 148 assisted living units are exempt from the schools’ test. The subject property is located within Cluster 5, as identified in the *Pupil Yield Factors and Public-School Clusters* 2020 Update. An analysis was conducted, and the results are as follows:

Impact on Affected Public School Clusters Single-family/Multifamily Dwelling Units

Affected School Cluster	Elementary School Cluster 5	Middle School Cluster 5	High School Cluster 5
Total Units	1,032	1,032	1,032
Elderly Units (exempt)	397	397	397
Assisted Living Units (exempt)	148	148	148
Multi-Family Detached Dwelling Units	487 DU	487 DU	487 DU
Multi-Family Pupil Yield Factor (PYF)	0.162	0.089	0.101
MFD x PYF = Future Subdivision Enrollment	79	43	49
Adjusted Student Enrollment 9/30/19	6,428	2,797	3,668
Total Future Student Enrollment	6,507	2,840	3,717
State Rated Capacity	7,913	3,304	5,050
Percent Capacity	82 percent	86 percent	74 percent

Section 10-192.01 establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$10,180 per dwelling if a building is located

between I-95/I-495 and the District of Columbia; \$10,180 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; or \$17,451 per dwelling for all other buildings. This project is located between I-95/I-495 and the District of Columbia; thus, the surcharge fee is \$10,180. This fee is to be paid to DPIE at the time of issuance of each building permit.

12. **Public Facilities**—In accordance with Section 24-122.01 of the Subdivision Regulations, police, water and sewerage, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated September 13, 2021 (Thompson to Heath) and incorporated by reference herein.
13. **Public Utility Easement (PUE)**—Section 24-122(a) of the Subdivision Regulations requires that when utility easements are required by a public company, the subdivider shall 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 standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. The subject site fronts on the public right-of-way of Southern Avenue. The required PUE along Southern Avenue is delineated on the PPS.

The PPS includes internal private rights-of-way to serve the site. Section 24-128(b)(12) requires that 10-foot-wide PUEs be provided along one side of all private streets. The applicant filed for a variation from Section 24-128(b)(12), which is discussed below.

Variation Request

The applicant is proposing internal private rights-of-way for circulation through the site. Section 24-128(b)(12) establishes design guidelines for lots fronting on private rights-of-way. This section requires that these lots provide a 10-foot-wide PUE along one side of a private right-of-way. The applicant is proposing to provide one seven-foot-wide PUE along and within the proposed private street Parcel A traveling through the center of the site, which provides direct connection from Southern Avenue and continues from west to east within the subject property. The project is design so that all development parcels will front on the central private right-of-way within the site. This right-of-way continues and loops to the rear of the lots for additional circulation but PUEs are not proposed along these areas. Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation request, 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 Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

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

Granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to the other property. A PUE will be provided at the standard width along Southern Avenue, allowing for continuity for the placement of utilities to serve neighboring properties. The variation for the specific location and width of utilities is solely within the subject site and designed to serve the specific needs of this property, while not affecting other properties. This application has been referred out to public utility agencies, none of which have objected to this request.

- 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;**

The applicant submitted a revised SOJ, received on October 11, 2021, in support of this variation request and all the required findings listed herein. The SOJ asserts that the conditions on which the variation is based are unique, as the subject property is physically constrained due to a number of factors. There are 3.14 acres of woodland preservation area on the northern and eastern portion of the site, which the applicant has designed its lotting pattern and right-of-way circulation to avoid. Further, the property has a relatively narrow frontage along Southern Avenue, along with steep slopes in this location. These conditions, which are further elaborated in the applicant's SOJ, are not generally applicable to other properties.

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

This variation request does not constitute a violation of any other applicable law, ordinance, or regulations. The approval of a variation is unique to the Subdivision Regulations and under the sole authority of the Prince George's County Planning Board. The applicant has also provided correspondence stating that they have consulted with the Potomac Electric Power Company regarding the proposed PUE design in order to meet their needs.

- 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;**

As discussed above, the subject property is physically constrained due to a number of factors. There are 3.14 acres of woodland preservation area on the northern and eastern portion of the site, which the applicant has designed its lotting pattern and right-of-way circulation to avoid. Further, the property has a relatively narrow frontage along Southern Avenue, along with steep slopes in this location. These factors, which are further elaborated in the applicant's SOJ, have constricted the development area. The site is being design for a dense urban setting while providing minimal disturbance to existing environmental features on-site and with respect to providing the utility areas necessary to serve the development. Requiring the applicant to provide PUEs above those necessary to serve the proposed development would be a particular hardship to ensuring the preservation of environmental features and utilization of the most developable areas of the site.

5. **In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily 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 subject property is zoned M-X-T. Therefore, this provision does not apply.

The Planning Board finds that the site is unique to the surrounding properties and the variation is supported by the required findings. The approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which in part, is to ensure that public utilities are available to serve the site.

14. **Historic**—A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The subject property does not contain and is not adjacent to any Prince George's County historic sites or resources. This proposal will not impact any historic sites, historic resources or known archeological sites. Due to previous disturbance on the site and steep slopes, a Phase I archeology survey is not recommended.
15. **Environmental**—The following applications and associated plans have been reviewed for the subject site:

Review Case Number	Associated Tree Conservation Plan Number	Authority	Status	Action Date	Resolution Number
NRI-023-2020	N/A	Staff	Approved	4/11/2020	N/A
NRI-023-2020-01	N/A	Staff	Approved	4/22/2020	N/A
4-19052	TCP1-015-2021	Planning Board	Approved	11/18/2021	2021-41

Proposed Activity

The applicant requested approval of a PPS and a Type 1 tree conservation plan (TCP1-015-2021) for nine parcels for the development of 1,032 multifamily units, 28,775 square feet of commercial space, and 10,894 square feet of institutional use space.

Grandfathering

This project is subject to the current environmental regulations of Subtitles 24, 25, and 27 that came into effect on September 1, 2010 and February 1, 2012 because the application is for a new PPS.

Site Description

This 15.09-acre site is zoned M-X-T and is located at 1501 Southern Avenue, approximately 2,000 feet north of its intersection with Wheeler Road in Temple Hills. To the west of the site and Southern Avenue is the District of Columbia boundary limits. Currently, the property contains an asphalt drive off Southern Avenue that goes to the northeast to an open unwooded area. This open area previously housed buildings and asphalt/concrete parking areas, which have all been recently removed. The remaining areas of the site are woodlands. A review of the available information indicates that regulated environmental features are present on-site. The soil types found on-site, according to the United States Department of Agriculture Natural Resources Conservation Services Web Soil Survey, are Collington-Wist-Urban land complex, Croom-Marr complex, Marr-Dodon-Urban land complex, Sassafras and Croom soils, and Sassafras-Urban land complex soils. Marlboro and Christiana clays do not occur on or in the vicinity of this site. According to the Sensitive Species Project Review Area map received from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or near this property. This site is in the Oxon Run watershed which flows into the Potomac River. The property is located off Southern Avenue, which does not contain a designation in the MPOT, nor is it identified as a scenic or historic roadway.

General Plan Conformance

The site is located within the Environmental Strategy Area 1 (formerly the Developed Tier) of the Regulated Environmental Protection Areas Map as designated by Plan 2035; and the Established Communities of the General Plan Growth Policy Map (2035).

Master Plan Conformance

Sector Plan

In the sector plan, Chapter 2, Environmental Quality and Sustainability, contains environmental objectives and recommendations. The following recommendations have been determined to be applicable to the current project.

Environmental Recommendations

- **Seeking opportunities to reduce overall energy and resource consumption by promoting the use of more effective, energy efficient indoor and outdoor lighting and air movement systems, and orienting buildings to maximize the potential for solar energy generation, in new development.**

The use of green building and energy conservation techniques should be encouraged and implemented to the greatest extent possible. Development applications for the subject property should incorporate green and environmentally sensitive building and site design techniques to reduce overall energy consumption to the fullest extent practical.

- **Continuing to develop stream valleys as a resource for trail connections.**

Currently, the closest master planned trail is just over 1,400 feet away adjacent to the nearby Southern Avenue Metro Station. This trail is proposed to be a hard surface trail. Currently, there are no plans for this project to connect to this master planned trail.

- **Creating a comfortable pedestrian environment with urban open spaces and extensive seating along sidewalks.**

This project is currently in the PPS review process and no details have been given as to creating a comfortable pedestrian environment. This will be reviewed with the DSP.

The proposed subdivision is shown to be accessed from Southern Avenue. Existing sidewalks on Southern Avenue will tie into the proposed road network of this subdivision and meet the intent of this policy.

- **Conserving and protecting trees, woodlands, and wildlife habitat by requiring site planning techniques and construction practices that prevent adverse effects on these sensitive environmental features.**

The site is subject to the WCO. Based on the TCP1 submitted with this application, the woodland conservation requirement will be addressed with on-site preservation, landscape credits, and off-site woodland credits.

The site contains an un-named tributary to the Oxon Creek that is located along the northeastern property line. The TCP1 plan shows no impact to the stream and stream buffer, only to the

adjacent steep slopes. This proposed impact is located in two areas to disturb steep slopes for a stormwater pipe connection and for a SWM outfall structure. There are proposed primary management area (PMA) impacts that are evaluated in detail in the Regulated Environmental Features section of this resolution. An ephemeral stream channel will also be impacted as part of this SWM outfall structure. The balance of the woodland within the PMA (stream, stream buffer, and steep slopes) will be preserved other than these two impact areas. The proposed development will not adversely affect water quality because the project is subject to review by the Prince George's County Soil Conservation District (PGSCD) related to sediment and erosion control measures, and approval of SWM plan by DPIE.

- **Improving water quality using a variety of approaches appropriate to an urban setting. These should include, but should not be limited to, comprehensive streetscape plans using extensive tree planting, linear urban parks, and median planting; green rooftops; and using site designs that reduce surface runoff and maximize infiltration in all new and redeveloped sites.**

This development proposal has an approved SWM concept plan and letter (36900-2020-00) dated July 23, 2021, which demonstrates conformance with this goal. The approved plan shows that the proposed environmental site design techniques used will be 26 micro bioretention facilities, one green roof, and six underground storage facilities.

- **Coordinating land development to reduce or mitigate the effects of noise pollution.**

The subject property is proposed for 1,032 multifamily units, 28,775 square feet of commercial space, and 10,894 square feet of institutional use space. The site is bounded to the north by existing woodlands, to the east and south by a graded and partially constructed church facility with parking lots, and to the west by an existing apartment complex and Southern Avenue. The adjacent road Southern Avenue is not specifically designated in the MPOT because the roadway is within boundaries of the District of Columbia. The proposed use is not anticipated to generate noise impacts.

- **Protecting, preserving, and enhancing the green infrastructure network and enhancing environmental corridors by focusing development outside the network.**

The property contains regulated and evaluation areas within the green infrastructure network according to the *2017 Countywide Green Infrastructure Plan* of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan). The regulated area is associated with the on-site, un-named tributary to the Oxon Run, which runs along the northeastern boundary of the property. The evaluation area covers the remaining area of the property except for some of the on-site open areas. The Oxon Run is identified in the sector plan as a stream and watershed with poor water quality and is recommended for conservation and preservation. Conservation and preservation of this

stream and watershed, particularly the headwater areas, will help to improve water quality downstream. The proposed development will not adversely affect water quality because the project is subject to review by PGSCD related to sediment and erosion control measures, and approval of a SWM plan by DPIE.

The two proposed PMA impacts will disturb the green infrastructure evaluation area for a SWM facility and outfall structure. The TCP1 shows the preservation of one existing woodland area and proposes two planting (landscape and natural regeneration) areas to expand the preservation areas. The proposed impacts to the PMA are discussed in the Regulated Environmental Features/Primary Management Area section of this resolution and the proposed preservation of woodland is discussed in the Woodland Conservation section of this resolution. The proposed project, which is consistent with the M-X-T zoning, preserves the high priority environmental features of the site within the green infrastructure network.

Conformance with Countywide Green Infrastructure Plan

According to the Green Infrastructure Plan, the majority of the site is within the regulated area or evaluation area. The area outside the green infrastructure plan is a rounded area which includes the area of the previous commercial/industrial development. The application area contains an intermittent stream (un-named stream to Oxon Run), stream buffer, and steep slopes. The site also contains an ephemeral stream. This development will impact the evaluation areas for development of the site.

The following policies support the stated measurable objectives of the Green Infrastructure Plan:

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 property is subject to the WCO. Plan 2035 designates the site within Environmental Strategy Area 1 (formerly the Developed Tier). The proposal preserves woodland while implementing the desired development pattern of the General Plan by preserving 3.14 acres of existing woodlands, 0.21 acre for natural regeneration, 0.12 acre for landscape credits, and preserving the PMA in conformance with the WCO.

The property contains regulated and evaluation areas within the green infrastructure network. The Regulated Area is associated with the on-site, un-named tributary to the Oxon Run, which runs along the northeastern boundary of the site. The evaluation area covers the remaining area of the property except for some of the on-site open areas. The Oxon Run is identified in sector plan as a stream and watershed with poor water quality which is recommended for conservation and preservation. Conservation and preservation of this stream and watershed, particularly the headwater areas, will help to improve water quality downstream. The proposed development will not adversely affect water quality, because the project is subject to review by PGSCD related to sediment and erosion control measures, and approval of a SWM plan by DPIE.

The two approved PMA impacts will disturb an Evaluation Area for a SWM facility and outfall. The TCP1 shows the preservation of one existing woodland area and proposes two planting (landscape and natural regeneration) areas to expand the preservation areas. The impacts to the PMA, are discussed in the Regulated Environmental Features/Primary Management Area section of this resolution and the preservation of woodland is discussed in the Woodland Conservation section of this resolution. The project, which is consistent with the M-X-T Zone, preserves the high priority environmental features of the site within the Green Infrastructure network.

POLICY 4: Provide the necessary tools for implementation of the Green Infrastructure Plan.

4.2: Continue to require the placement of conservation easements over areas of regulated environmental features, preserved or planted forests, appropriate portions of land contributing to Special Conservation Areas, and other lands containing sensitive features.

Conservation easements will be required for areas within the PMA that are proposed for retention. On-site woodland conservation will also be required to be placed in Woodland and Wildlife Habitat Conservation Easements prior to the approval of the Type 2 tree conservation plan (TCP2).

POLICY 5: Improve water quality through stream restoration, stormwater management, water resource protection, and strategic conservation of natural lands.

5.8: Limit the placement of stormwater structures within the boundaries of regulated environmental features and their buffers to outfall pipes or other features that cannot be located elsewhere.

5.9: Prioritize the preservation and replanting of vegetation along streams and wetlands to create and expand forested stream buffers to improve water quality.

The site has an approved SWM concept (36900-2020-00) which addresses surface water runoff issues in accordance with Subtitle 32, Water Quality Resources and Grading Code. The PMA associated with this application is located along the northern property line associated with the on-site stream, stream buffers, and steep slopes. Two necessary impacts to the PMA are for a single SWM outfall and stormdrain pipe connection construction. The remaining PMA will be preserved as on-site woodland conservation.

POLICY 7: Preserve, enhance, connect, restore, and preserve forest and tree canopy coverage.

7.1: Continue to maximize on-site woodland conservation and limit the use of off-site banking and the use of fee-in-lieu.

7.2: Protect, restore, and require the use of native plants. Prioritize the use of species with higher ecological values and plant species that are adaptable to climate change.

7.4: Ensure that trees that are preserved or planted are provided appropriate soils and adequate canopy and root space to continue growth and reach maturity. Where appropriate, ensure that soil treatments and/ or amendments are used.

Based on the proposed TCP1, the design will preserve 3.14 acres of existing woodlands, 0.21 acre of natural regeneration, and 0.12 acre of landscape credits to replace and preserve the existing wooded PMA. This application will require the purchase of 0.55 acre off-site woodland credits. Woodland retention and planting of native species on-site are required by both the Environmental Technical Manual and the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The off-site woodland credits must be purchased within the same watershed if not then the same river basin (Potomac or Patuxent).

Environmental Review

Natural Resources Inventory Plan/Existing Features

A Natural Resource Inventory, NRI-023-2020-01, was provided with this application. The TCP1 and the PPS show the required information, in conformance with the NRI. No revisions are required for conformance to the NRI.

Woodland Conservation

This property is subject to the provisions of the WCO because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. TCP1-015-2021 was submitted with the PPS.

Based on the revised TCP1, the overall site contains a total of 10.31 acres of net tract woodlands and does not contain floodplain. The plan shows a proposal to clear 7.04 acres of net tract woodland and 0.00 acre of off-site woodlands. The resulting woodland conservation requirement is 4.02 acres, which is proposed to be met with 3.14 acres of on-site preservation, 0.21 acre of on-site natural regeneration, 0.12 acre of landscape credit, and 0.55 acre of off-site woodland credits.

Technical revisions are required to the TCP1 which are included in the conditions of this approval.

Specimen Trees

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."

The TCP1 shows 23 specimen trees with eight specimen trees located on-site. The 23 specimen trees have ratings ranging from excellent (Specimen Tree 14), good (Specimen Trees 1, 8, 13, 21, and 23), fair (Specimen Trees 2, 4, 5, 6, 7, 10, 12, 16, 17, 18, 19, 20, and 22), and poor (Specimen Trees 3, 9, 11, and 15). There are eight off-site specimen trees located on three adjacent properties around the subject site (Specimen Trees 3, 4, 5, 6, 7, 10, 14, and 18).

A revised Subtitle 25 variance application, a SOJ in support of a variance (dated October 6, 2021), and a tree removal exhibit were received for review on October 11, 2021. The variance requested the removal of six on-site specimen trees (1, 2, 8, 9, 16, and 23). No off-site specimen trees are proposed for removal.

The applicant received comments at the SDRC meeting noting that there are several other specimen trees that appear to show their root zones as being impacted with the development proposed and will need to be reviewed for species construction tolerance. These specimen trees will require either protective measures or need to be shown as removed. The protective measures for these impacted root zone trees shall be reflected on the TCP2 accompanying the DSP review. If the applicant cannot reduce the limit of disturbance sufficiently to save these trees, a variance request may be needed at time of TCP2. Every effort shall be made to preserve the trees not recommended for removal with this application.

Section 25-119(d)(1) of the WCO contains six required findings that need to be made before a variance can be granted. The letter of justification submitted seeks to address the required findings for the six specimen trees, and details relative to specific individual trees have also been provided in the following chart.

Specimen Tree Schedule Summary

ST Number	COMMON NAME	Diameter (in inches)	CONDITION	DISPOSITION	ROOT PRUNE
1	White Oak	33	Good	To be removed	NO
2	Black Oak	49	Fair	To be removed	NO
3*	S. Red Oak	34	Poor	To be saved	YES
4*	White Oak	32	Fair	To be saved	YES
5*	Tulip Poplar	35	Fair	To be saved	YES
6*	American Beech	34	Fair	To be saved	NO
7*	Black Oak	37	Fair	To be saved	NO
8	White Oak	37	Good	To be removed	NO
9	Tulip Poplar	37	Poor	To be removed	NO
10*	Black Cherry	34	Fair	To be saved	YES
11	Tulip Poplar	40	Poor	To be saved	NO
12	Tulip Poplar	32	Fair	To be saved	YES
13	White Oak	50	Good	To be saved	NO
14*	White Oak	35	Excellent	To be saved	NO
15	Blackgum	35	Poor	To be saved	YES
16	Tulip Poplar	38	Fair	To be removed	NO
17	White Oak	33	Fair	To be saved	NO
18*	Chestnut Oak	31	Fair	To be saved	NO
19	Chestnut Oak	32	Fair	To be saved	YES
20	Chestnut Oak	46	Fair	To be saved	YES
21	Chestnut Oak	31	Good	To be saved	YES
22	Chestnut Oak	32	Fair	To be saved	YES
23	Chestnut Oak	32	Good	To be removed	NO

Note: * = Specimen Tree is located off-site (eight trees)

A variance to Section 25-122(b)(1)(G) was requested for the clearing of six on-site specimen trees. The site consists of 15.09 acres of property zoned M-X-T located in an Expedited Transit Oriented Development (ETOD) district. The current proposal for this property is to construct 1,032 multifamily units, 28,775 square feet of commercial space, and 10,894 square feet of institutional use space and associated infrastructure. The on-site open areas were previously used for buildings and asphalt/concrete parking areas, which have all been recently removed. This variance was requested to the WCO which requires, under Section 25-122, that “woodland conservation shall be designed as stated in this Division unless a variance is approved by the approving authority for the associated case.” The Subtitle 25 variance application form requires a SOJ describing how the findings are being met.

The removal of the six specimen trees was requested by the applicant based on the findings below.

The text in **bold**, labeled A-F, are the six criteria listed in Section 25-119(d)(1). The plain text provides responses to the criteria.

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

The 15.09-acre site contains no structures and has 10.31 acres of woodlands, 3.33 acres of which is within the PMA. The specimen trees proposed for removal are scattered within the most developable area of the site. The developable areas outside the PMA contain steep slopes that require grading for development and placement of roadways to access and serve the site. To effectively develop the site and prevent hazards, it is necessary for the six specimen trees (1, 2, 8, 9, 16, and 23) to be removed.

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

These rules apply to all properties and the same considerations would be provided during the review of a variance application necessary for development of any other similar site. Therefore, enforcement of these rules would deprive the applicant of the same rights commonly enjoyed by others in similar areas.

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

Based on the scattered locations of the specimen trees within a M-X-T zoned and ETOD overlay property, the granting of this variance will allow the project to be developed in a functional and efficient manner while providing current sediment control measures and SWM facilities to protect the on-site headwaters of Oxon Run. The removal of the specimen trees is found necessary in order to develop the site in the most appropriate location and does not confer any special privilege to the applicant that would be denied to other applicants.

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

This request is not based on conditions or circumstances which are the result of actions by the applicant. The applicant proposes the removal of six specimen trees primarily due to the scattered location of the trees and grading that is required around the proposed development to mitigate stormwater and provide sediment control measures. The variance request is the result of the property conditions and is not the result of actions by the applicant.

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

This request is not based on conditions related to land or a building use on a neighboring property.

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

The removal of the six specimen trees and the proposed development will not adversely affect water quality because the project is subject to the requirements of PGSCD related to sediment and erosion control measures and approval of a SWM plan by DPIE. All development is required to be in accordance with an approved SWM plan which includes the review of water quality treatment in accordance with state and County requirements. Therefore, the granting of this variance will not adversely affect water quality.

Regulated Environmental Features/Primary Management Area (PMA)

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 the 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 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. SWM 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.

The site contains regulated environmental features/PMA. According to the revised TCP1 and SOJ dated October 9, 2021, two impacts are proposed to the PMA for a stormdrain line and a SWM outfall structure impacting the PMA (steep slopes) and an ephemeral channel. The original SOJ showed four impact areas and the impacts have been reduced to two in response to the SDRC meeting comments. Several of these impacts were for fill and grading and could not be approved.

Statement of Justification

The SOJ includes a request for two separate PMA impacts totaling 2,597 square feet of impacts proposed to steep slopes and an ephemeral channel.

Analysis of Impacts

Based on the SOJ, the applicant requested two impacts, as described below:

Impact 1

This PMA impact totaling 770 square feet was requested for construction of a stormwater conveyance for one piped system to the outfall structure. The impact area will disturb the extended steep slopes portion of the PMA. Once the stormwater pipe is installed, this impact area is required to be returned to the previous grade. Areas outside the easement area will be replanted.

Impact 2

This PMA impact totaling 1,827 square feet was requested for the construction of one SWM outfall structure. The impact is to the expanded steep slopes portion of the PMA. This proposes an impact of 37 linear feet to the ephemeral channel. Once the SWM outfall is installed, the areas outside the rip-rap area will be replanted.

The PMA impacts are considered necessary to the orderly development of the subject property and are approved. The impacts cannot be avoided because the site is required to provide adequate stormwater drainage and infrastructure. The plan shows the preservation, restoration, and enhancement of the remaining PMA.

16. **Urban Design**—Conformance with the Prince George’s County Zoning Ordinance (Subtitle 27) is evaluated as follows:

Conformance with the Requirements of The Development District Overlay (D-D-O) Zone Standards of the 2014 Approved Southern Green Line Station Area Sector Plan and Sectional Map Amendment

The subject site is located within the D-D-O Zone of the sector plan. DSP review is required by both the D-D-O and M-X-T Zones. The proposed subdivision will be required to demonstrate conformance with the applicable requirements of the Zoning Ordinance at the time of DSP review including, but not limited to, the following;

- M-X-T Zone requirements in Sections 27-544 and 27-548, as applicable.
- Expedited Transit-Oriented Development Requirements in Section 27-290.01 of the Zoning Ordinance, as applicable.
- Part 11, Off-Street Parking and Loading, and
- Part 12, Signs.

Conformance with the 2010 Prince George’s County Landscape Manual

This development in the M-X-T Zone will be subject to the requirements of the Landscape Manual at the time of DSP. Specifically, the site is subject to Section 4.1, Residential Requirements; Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets. Conformance with these requirements will be evaluated at the time of DSP.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require building and grading permits that propose 5,000 square feet or greater of gross floor area or disturbance. Properties that are zoned M-X-T are required to provide a minimum of 10 percent of the gross tract area in TCC.

The subject site is 15.1 acres in size and will be required to provide a minimum of 1.51 acres of the tract area in TCC. Conformance with this requirement will be evaluated at the time of DSP.

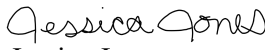
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

* * * * *

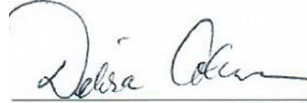
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, November 18, 2021, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of December 2021.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

EMH:JJ:AH:nz

 11/29/21

Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel