

R E S O L U T I O N

WHEREAS, Capitol Hospitality Inc./Royal Hospital Inc. is the owner of a 3.82-acre parcel of land known as Parcel A of Sims Tract and Lots 34 and 35 of Daniels Park said property being in the 21st Election District of Prince George's County, Maryland, and being zoned Local Transit-Oriented Edge (LTO-E) Zone; and

WHEREAS, on June 14, 2022, Capitol Hospitality Inc./Royal Hospital Inc. filed an application for approval of a Preliminary Plan of Subdivision for one parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-22007 for 9113 Baltimore Avenue 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 September 8, 2022; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1900 of the Subdivision Regulations, subdivision applications submitted before April 1, 2024, may be reviewed and decided in accordance with the prior Subdivision Regulations; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, on September 8, 2022, 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 Preliminary Plan of Subdivision 4-22007, including a Variation from Section 24-122(a), for one parcel with the following conditions:

1. Prior to signature approval, the preliminary plan of subdivision shall be revised to provide the following:
  - a. Add bearings and distances to dedicated area along US 1 (Baltimore Avenue) and Delaware Street.

- b. A note indicating access is for services areas and move-in/out vehicles only along 48th Avenue.
- 2. Development of the site shall be in conformance with the Stormwater Management Concept Plan (1836-2022), once approved, and any subsequent revisions.
- 3. Prior to approval, the final plat of subdivision shall include:
  - a. Right-of-way dedication along all roadways, in accordance with the approved preliminary plan of subdivision, as follows:
    - i. For US Route 1 (Baltimore Avenue), dedicate 50 feet from the centerline;
    - ii. For Delaware Street, dedicate 25 feet from the centerline;
  - b. The applicant and the applicant's heirs, successors, and/or assignees shall enter into a Public Use Easement Agreement with the City of College Park for the public use of any portion of frontage sidewalk on the subject property, as determined necessary, at the time of detailed site plan. The easement agreement shall be approved by the City of College Park, recorded in Prince George's County, and the Liber/folio shown on the final plat, prior to recordation. The final plat shall reflect the location and extent of the easement.
  - c. The dedication of 10-foot-wide public utility easements along all abutting public rights-of-way, except along 48th Avenue, for which a variation has been approved.
- 4. At the time of detailed site plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
  - a. Signage and design features to facilitate a limited right-out only access driveway from the site along US 1 (Baltimore Avenue), including the driveway design and exact details/profiles of the signage.
  - b. Dedicated space for rideshare activities.
  - c. A note indicating that a vehicular access point along US 1 (Baltimore Avenue), is limited to a right-out only access.
  - d. A note indicating service areas and move-in/out vehicles only along 48th Avenue.
  - e. Delineate the extent and location of any public use easement necessary to facilitate pedestrian access of any public pedestrian facilities located on-site.
  - f. Place a note on the landscape plan that, at the time of development, efforts shall be made to save Tree T4, a Willow Oak, including installing tree protection fencing during construction.

- g. Place a note on the landscape plan that, to help the survivability of specimen trees on the adjoining property, the applicant shall engage in tree protection measures such as installing tree protection fencing during construction, root pruning, and vertical mulching.
5. Prior to approval of the first building permit for the subject property, the applicant and the applicant's heirs, successors, and/or assignees shall have permitted for construction and have an agreed upon timetable to construct 48th Avenue along the property's frontage to its ultimate condition, in accordance with the operating agencies' design standards.
  6. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities and show these facilities on a pedestrian and bikeway facilities plan, as part of the detailed site plan, prior to its acceptance:
    - a. A minimum 12-foot-wide sidewalk and associated ADA curb ramps and crosswalks along the property frontage of US 1 (Baltimore Avenue), and a minimum 6-foot-wide sidewalk along Delaware Street, Cherokee Street, and 48th Avenue, unless modified by the operating agency, with written correspondence.
    - b. A minimum 5-foot-wide sidewalk or wide sidewalk throughout the site where feasible, including ADA curb ramps and associated crosswalks.
    - c. Shared road pavement markings along the property frontage of Cherokee Street, unless modified by the operating agency, with written correspondence.
    - d. Provide ADA curb ramps and crosswalks crossing all vehicular access points.
    - e. Provide the pedestrian and bicycle facilities and amenities where applicable, as described in the 2010 *Approved Central US 1 Corridor Sector Plan and Sectional Map Amendment*.
    - f. A minimum 5-foot-wide bicycle lane or 6.5-foot-wide cycle tracks along the property frontage of US 1 (Baltimore Avenue), unless modified by the operating agency, with written correspondence.
    - g. A minimum 4.5-foot-wide landscape amenity panel along the property frontage of US 1 (Baltimore Avenue), and a minimum 6-foot-wide landscape amenity panel along the property's frontage along Delaware Street and Cherokee Road, unless modified by the operating agency, with written correspondence.
    - h. Long- and short-term bicycle parking within the multifamily building and near the building entrance, and short-term bicycle parking provided near the entrances of the retail, in accordance with AASHTO guidelines.
    - i. Bicycle fix-it station on-site.

7. In accordance with prior Section 24-135 of the Prince George's County Subdivision Regulations, the applicant, and the applicant's heirs, successors, and/or assignees shall allocate appropriate and developable areas for, and provide, adequate on-site recreational facilities.
8. Prior to submission of the final plat of subdivision, the applicant, and the applicant's heirs, successors, and/or assignees shall submit three original executed private 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. 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, prior to plat recordation.
9. The on-site recreational facilities shall be reviewed by the Urban Design Section of the Development Review Division of the Prince George's County Planning Department, for adequacy and proper siting, in accordance with the Parks and Recreation Facilities Guidelines, with the review of the site plan. Timing for construction shall also be determined at the time of detailed site plan.
10. Prior to approval of a building permit, 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.

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 on the east side of US 1 (Baltimore Avenue) between Cherokee Street and Delaware Street and is 3.82 acres. The subject property is comprised of one parcel and two lots, which includes Parcel A of Sims Tract, recorded in the Prince George's County Land Records in Plat Book NLP 97, Page 49; and Lots 34 and 35 of Daniels Park, recorded in Prince George's County Land Records in Plat Book LIB A, Page 59. The property is within the Local Transit-Oriented Edge (LTO-E) Zone, and was previously located within the Mixed Use-Infill (M-U-I) and Development District Overlay (D-D-O) Zones. This PPS was reviewed in accordance with the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1900 of the Subdivision Regulations. In accordance with Section 24-1904(c) of the Subdivision Regulations, this preliminary plan of subdivision (PPS) is supported by and subject to approved Certificate of Adequacy ADQ-2022-039. The site is subject to the 2010 *Approved Central US 1 Corridor Sector Plan and Sectional Map Amendment* (sector plan), Subtitles 24 and 27 of the prior Prince George's County Code, and other applicable plans, as outlined herein. This PPS includes one

parcel for development of 331 multifamily dwelling units and 3,937 square feet of commercial use. The site currently consists of commercial development, which is to be removed.

Section 24-122(a) of the Subdivision Regulations requires that 10-foot-wide public utility easements (PUEs) be provided along both sides of all public rights-of-way. The public right-of-way 48th Avenue abuts the site to the east. The applicant requested approval of a variation from the PUE requirements and proposed that any needed dry utilities will be placed within the right-of-way. This request is discussed further in this resolution.

3. **Setting**—The property is located on Tax Map 25 in Grids E3 and D3. The property is within Planning Area 66. The properties to the north beyond Delaware Street consist of mixed use and office development within the LTO-E and Residential, Single-Family-65 (RSF-65) Zones (formerly the M-U-I and One-Family Detached Residential (R-55) Zones). The properties to the east beyond 48th Avenue consist of single-family detached development and vacant land within the RSF-65 Zone (formerly the R-55 Zone). The abutting properties to the east consist of institutional and multifamily residential development within the RSF-65 and LTO-E zones (formerly the R-55 and Multifamily Medium Density Residential (R-18) Zones). The properties to the south beyond Cherokee Street consist of townhouse development and vacant land within the LTO-E Zone (formerly the M-U-I Zone). The properties to the west beyond US 1 consist of commercial and multifamily development within the LTO-E Zone (formerly the M-U-I Zone).
4. **Development Data Summary**—The following information relates to the subject PPS application and the approved development.

	<b>EXISTING</b>	<b>APPROVED</b>
Zone	LTO-E	LTO-E
Use(s)	Commercial	Residential/Commercial
Acreage	3.82	3.82
Lots	2	0
Parcels	1	1
Dwelling Units	0	331
Gross Floor Area	35,059 sq. ft.	3,937 sq. ft.

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on June 24, 2022.

5. **Previous Approvals**—No previous approvals are associated with this property.
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 subject property is in the Innovation Corridor and within one of four designated employment areas of Plan 2035. Employment areas have the highest concentration of economic activity in the

County's targeted industry clusters and is where Plan 2035 recommends supporting business growth, concentrating new business development near transit where possible, improving transportation access and connectivity, and creating opportunities for synergies (page 19). This PPS aligns with the growth policy of employment areas of the general plan by concentrating residential and commercial development near existing economic activity and existing industry clusters.

### **Sector Plan Conformance**

The sector plan recommends mixed-use commercial land uses on the subject property. The subject property is in the walkable node character area of the sector plan. The walkable nodes "consist of higher-density mixed-use buildings that accommodate retail, offices, row houses, and apartments, with emphasis on nonresidential land uses, particularly on the ground level. It has fairly small blocks with wide sidewalks and buildings set close to the frontages" (page 228). The land use and urban design policies of these areas are to develop a series of pedestrian-friendly, transit-oriented, mixed-use walkable nodes at appropriate locations along the Central US 1 Corridor (page 65); to establish a strong sense of place by ensuring the highest quality of development (page 67); and to create appropriate transitions between the nodes and existing residential neighborhoods (page 68).

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, the PPS conforms to the sector plan's recommended land use.

7. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan, or an indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. An unapproved SWM Concept Plan (1836-2022) was submitted with this PPS, and dually submitted to the Prince George's County Department of Permitting, Inspections and Enforcement for review and approval. The SWM concept plan shows the use of two micro-bioretenion facilities, bay saver cartridges, and a green roof to detain, treat, and release stormwater leaving the site. An approved SWM concept plan will be required as part of the application at time of detailed site plan (DSP) review.

Development of the site, in conformance with SWM concept approval and any subsequent revisions to ensure that no on-site or downstream flooding occurs, will satisfy the requirements of Section 24-130 of the Subdivision Regulations.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of Plan 2035, the development plan, the sector plan, the 2017 *Land Preservation, Parks and Recreation Plan for Prince George's County*, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, the Subdivision Regulations, and prior approvals, as they pertain to public parks and recreation and facilities.

This PPS was reviewed for conformance to the master plan, per Sections 24-121(a)(5) and 24-122(b) of the Subdivision Regulations. The proposed development aligns with the master plan's intention to provide quality, safe, and convenient parks and recreational facilities within

mixed-use developments providing respite and contributing to the desirability and livability of the community for current and future residents.

Park and recreation amenities serving the subject property include the Paint Branch Golf Course, which is within 0.35 mile of the subject property. The golf course is developed with a golf driving range, 9-hole golf course, mini golf, a golf pro-shop, and clubhouse. The Acredale Park is 1.17 miles from the subject property and is developed with a dog area, picnic area, shelter, playground, horseshoe pit, and soccer and softball fields. The Paint Branch Trail also serves this area.

Separate from the evaluation of adequacy, the mandatory dedication of parkland requirements is applicable. This PPS is being reviewed per the provisions of Section 24-134 of the prior Subdivision Regulations, which pertains to the mandatory dedication of parkland, and provides for the dedication of land, the payment of a fee-in-lieu, or on-site recreational facilities, to meet the requirement. Based on the proposed density of development, 15 percent of the net residential lot area should be required to be dedicated to the Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks, which equates to 0.56 acre for public parklands. The subject property is not adjacent or contiguous to any property currently owned by M-NCPPC. The 0.56 acre of dedicated land would not be sufficient to provide for the types of active recreational activities that are needed. The current plan proposal calls for this requirement to be met with private on-site recreational facilities. In accordance with Section 24-135(b) of the Subdivision Regulations, the Planning Board may approve on-site recreational facilities, in lieu of parkland dedication, provided the following are met:

- 1. Such facilities will be superior, or equivalent, to those that would have been provided under and the provisions of mandatory dedication;**
- 2. The facilities will be properly developed and maintained to the benefit of future residents of the subdivision through covenants, a recreational agreement, or other appropriate means, that such instrument is legally binding upon the subdivider and his heirs, successors, and assignees, and that such instrument is enforceable, including enforcement by the Planning Board; and**
- 3. No permit for construction or occupancy of dwellings will be issued unless the Planning Board is satisfied that the facilities have been, or will be, provided at the appropriate state of development.**

On a conceptual basis, the applicant has proposed an outdoor swimming pool, a courtyard, a playground, a dog park, an outdoor terrace (located adjacent to pool deck), a grilling area (located within the outdoor terrace), a sunroom (lounge with a coffee bar overlooking the exterior courtyard), a library/café, a business center, a multipurpose room, a fitness center, a game room, a kitchenette, and bike storage with a fix-it station as recreational facilities.

The Prince George's County Parks and Recreation Facilities Guidelines also set standards based on population. Based on the projected population for the development, the typical recreational needs are:

- (1) Picnic Area
- (1) Playground
- (1) Sitting Area
- (0.6) School Age Playground
- (1) Open Play Area
- (1) Fitness Trail (6 stations)
- (0.6) Basketball–Multipurpose Court
- (0.5) Tennis Court

The applicant's proposal to provide private on-site recreational facilities will meet the requirements of Section 24-135(b). The recreational facilities to be provided will be further reviewed at the time of DSP.

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

#### **Master Plan Right of Way**

The subject site has frontage along master-planned roadway US 1, which is designated in the MPOT as MC-200 and is also a designated master plan roadway in the sector plan, which recommends an ultimate varying width right-of-way of 88–112 feet. Currently, US 1 has an existing varying right-of-way width of 27.3 to 50 feet from the centerline of US 1 along the property's frontage. The latest PPS submission shows a 22.7-foot-wide proposed right-of-way dedication along the western edge of the property and, with the current right-of-way configuration for existing Parcel A, demonstrates a total of 50-feet of ultimate right-of-way from centerline, which conforms to the sector plan's recommendations.

In addition, the site is bounded by nonmaster-planned public roadways, including Delaware Street on the north side of the site, with a proposed 24-foot right-of-way from centerline, which includes a dedication of 4 feet; Cherokee Street on the south side of the site, with an existing 35-foot right-of-way from centerline; and 48th Avenue on the east side of the site, which is plated as an existing 40-foot right-of-way. The latest PPS submission shows accurate right-of-way dedication along all roadways to facilitate the ultimate configuration within the limits of the PPS. Regarding 48th Avenue, the PPS shows that the roadway will be constructed to provide full movement access to the site. As a condition of approval, the applicant shall construct the portion of 48th Avenue shown on the PPS to public standards.

The site is also subject to the District Development Standards, which describe access to off street and structured parking (page 241). The primary source of access to off street parking should be limited to alleys and secondary streets when present. The site is bounded by two secondary streets, to which the primary access to parking will be designated to Cherokee Street. The



applicant proposed an additional site access point along the primary frontage street, US 1. The applicant agreed to evaluate and configure the access point along US 1 as an outbound access only, preventing that access from being the primary source of traffic to the site.

#### **Master Plan Pedestrian and Bike Facilities**

The subject property fronts a recommended master-planned bicycle lane along US 1. The operating agency, the Maryland State Highway of Administration, has constructed cycle tracks along portions of the US 1 roadway, which are also recommended along the property frontage.

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 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*.**

This development is also subject to the sector plan, which also proposes bicycle lanes along US 1 as interim facilities until a cycle track is constructed, and a shared use roadway along Cherokee Street. The following policies and strategies are provided for pedestrian and bicyclist facilities (page 141).

**Policy 1: Improve bicycle, pedestrian, and vehicular accessibility throughout the internal street network and to US Route 1 and Rhode Island Avenue by filling in missing linkages and ensuring the internal network is bicycle and pedestrian friendly through appropriate design, including traffic calming techniques. (page 135)**

**Policy 2: Implement a comprehensive wayfinding system to complement the street network and orient residents, visitors, students, and through traffic to the area. (page 136)**

**Policy 2: Facilitate bicyclists along entire corridor and through development so that bicycle routes are enhanced or established. (page141)**

In addition, the sector plan includes design guidelines on pages 65, 260, and 264 regarding designated walkable nodes. The master plan's design elements and the MPOT policy recommendations shall be detailed and evaluated in subsequent site plans. However, the latest PPS submission shows that adequate right-of-way is provided to support the sector plan's recommended pedestrian and bicycle facilities.

The above policies, strategies, and recommendations all support a multimodal community. Per the area sector plan (pages 260 and 264), the frontage along US 1 should include a 12- to 18-foot-wide sidewalk where feasible, a 6.5-foot-wide cycle track and a minimum 4.5-foot-wide landscape strip along US 1, and a 6-foot-wide sidewalk along side streets, unless modified by the operating agency. The cross sections provided on the PPS will accommodate these recommendations if a public use easement is provided along the subject property to provide the wide sidewalk. All applicable streetscape amenities described in the sector plan (page 264) shall be provided along the property frontage of US 1.

In addition, shared pavement markings shall be provided along the property frontage of Cherokee Street, per the area sector plan, unless modified by the operating agency. The designated facility will create a multimodal connection to the surrounding areas.

The latest PPS proposes three vehicular access points to the buildings on-site via one full access point along Cherokee Street, one full access point for service vehicles and move-in/out vehicles along 48th Street, and a limited right-out only driveway along US 1. The limited access driveway to the site along US 1 will conform to the goals of the sector plan access design standards and will minimize pedestrian and vehicular conflicts along US 1. As part of a condition of approval, the applicant shall provide the appropriate signage at the designated service area and provide additional signage and a driveway design that ensures an outbound vehicular only access along US 1. The overall circulation and proposed roadway configurations are acceptable. In addition, given the residential nature of the site, designated space for rideshare activities shall be provided on-site. At the time of DSP, all pedestrian and bicycle facilities and amenities as described in the sector plan shall be provided on a facilities plan.

Based on the preceding findings, the transportation facilities will be in conformance with the MPOT, the sector plan, and the Subdivision Regulations.

10. **Public Facilities**—This PPS was reviewed for conformance to the sector plan, in accordance with Section 24-121(a)(5). The sector plan provides goals and policies related to public facilities (pages 151–163), including the goal to “provide needed public facilities in locations that efficiently serve the population,” and the schools, libraries, and public safety policies and strategies. There are no police, fire and emergency medical service facilities, schools, parks, or libraries proposed on the subject property. This PPS is further supported by an approved certificate of adequacy (ADQ-2022-039), which ensures adequate public facilities to support the proposed land use. The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities, none of which affect this site.
11. **Public Utility Easement**—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 has frontage along the existing public rights-of-way of US 1, Cherokee Street, Delaware Avenue, and 48th Avenue. However, the applicant is proposing to remove the required PUE along its frontage of 48th Avenue.

The applicant requested a variation from the standard PUE requirement along this public right-of-way, in accordance with Section 24-113 of the Subdivision Regulations, which sets forth the following required findings for approval of a variation (in **BOLD**), followed by review comments:

#### **Section 24-113 Variations**

(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;**

Ten-foot-wide easements for public utilities are required along both sides of all public rights-of-way to ensure that utilities will be able to serve the subject site and surrounding development. However, the applicant is proposing to not provide the easement along the public right-of-way of 48th Avenue fronting the subject site. The right-of-way of 48th Avenue is currently unimproved and dead ends at the subject property’s frontage. The applicant is proposing to improve the right-of-way, to only serve the subject property as a rear service drive and for move-ins and move-outs. The applicant will provide utilities within the right-of-way, as needed. PUEs will be provided along all other public rights-of-way and will not preclude utility connection to other sites. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property.

(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 conditions on which the variation is based are unique to the subject site and generally not applicable to other properties. The right-of-way of 48th Avenue is dedicated, but was never improved. It also is not a through right-of-way, and dead ends at the property frontage. The right-of-way currently functions as a parking lot for the existing commercial uses on-site. Once improved, the right-of-way will only serve as a rear service drive for move-ins and move-outs for the subject site. The property also has frontage on three other rights-of-way, which will all have PUEs.

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

No other applicable law, ordinance, or regulation was found that would be violated by this request. The approval of a variation, in accordance with Section 24-113, is unique to the Subdivision Regulations and under the sole authority of the Prince George's County Planning Board. This PPS and variation request was referred to the public utility companies and the City of College Park, none of which have opposed this request. Further approval of utilities locations will be required by the affected agencies during their review of applicable permits and site development.

**(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 stated above, the property abuts four public rights-of-way, two of which require dedicated area which encroach the site. The property is also located within the walkable node of the sector plan, which encourages small blocks with wide sidewalks, buildings set close to the frontages, and access from side streets and alleys. Requiring a PUE along 48th Avenue would push the building back further from the street and reduce the amount of developable area. In addition, because 48th Avenue is a limited access roadway, a PUE in this location would not serve any substantial purpose, but could detract from the sector plans' recommendations for development of the site. These factors make it a hardship to provide a 10-foot-wide PUE along the public rights-of-way of 48th Avenue.

**(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 not within any of the zones specified by this criterion; therefore, this provision does not apply.

Based on the proceeding findings, the variation from Section 24-122(a) for the provision of a PUE along the public right-of-way of 48th Avenue is approved.

12. **Historic**—A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. A Phase I archeology survey is not required. The subject property does not contain and is not adjacent to any Prince George’s County historic sites or resources. The sector plan includes goals and policies related to historic preservation (pages 193-202). However, these are not specific to the subject site or applicable to the proposed development. This proposal will not impact any Prince George's County historic sites, historic resources, or known archeological sites.
13. **Environmental**—PPS 4-22007, 9113 Baltimore Avenue, was accepted for review on June 14,2022. Comments were provided in an SDRC meeting on June 24, 2022. Revised information was received on August 3, 2022. The following applications and associated plans have been reviewed for the subject site:

Development Review Case #	Associated Tree Conservation Plan or Natural Resources Inventory #	Authority	Status	Action Date	Resolution Number
NA	NRI-013-2022	Staff	Approved	4/12/2022	NA
NA	S-008-2022	Staff	Approved	1/25/2022	NA
4-22007	NA	Planning Board	Approved	9/8/2022	2022-95

**Grandfathering**

The project is subject to the environmental regulations contained in Subtitles 24, 25, and 27 because this application is for a new PPS.

**Plan 2035**

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.

**ENVIRONMENTAL CONFORMANCE WITH APPLICABLE PLANS**

**Sector Plan**

The site falls within the Upper Midtown portion of the sector plan, which does not indicate any environmental issues associated with this property.

### **Green Infrastructure Plan**

This property is not within the designated network of *The Countywide Green Infrastructure Plan* of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*.

The site was entirely cleared, graded, and developed prior to the enactment of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO).

## **ENVIRONMENTAL REVIEW**

### **Natural Resources Inventory**

The site has an approved Natural Resources Inventory Plan (NRI-013-2022), which correctly shows the existing conditions of the property. Three specimen trees are located on-site along the site boundary. This site is not associated with any regulated environmental features, such as streams, wetlands, 100-year floodplain, or associated buffers. The site is not within the primary management area.

### **Woodland Conservation**

The site is exempt from the provisions of the WCO because the property contains less than 10,000 square feet of woodland and has no previous tree conservation plan approvals. A Standard Letter of Exemption from the WCO was issued for this site (S-008-2022), which expires on January 25, 2024. No additional information is required regarding woodland conservation.

### **Soils**

The soils on the site, as shown on the Natural Resource Conservation Service, Web Soil Survey, include Russett-Christiana-Urban land complex (0–5 percent slopes), Sassafras Urban land complex (5–15 percent slopes), and Urban Land-Sassafras complex (0–5 percent slopes).

No soils containing Marlboro clay are mapped on or within the immediate vicinity of this site; however, unsafe soils containing Christiana complexes have been identified on and within the immediate vicinity of this property. The soils containing Christiana complexes are contained in previously disturbed urban soils on relatively flat slopes. There are no geotechnical concerns with this project.

### **Specimen, Champion, or Historic Trees**

In accordance with approved NRI-013-2022, three specimen trees have been identified on the subject property along the eastern property boundary. There are additional specimen trees located off-site immediately east of the site, as well. Although this site is exempt from the WCO, preservation of as many specimen trees as practicable should be considered during the final site design process. Particular care should be made to protect specimen trees on adjoining properties through the use of best management practices on-site, such as root pruning. Coordination with neighbors to implement additional stress reduction measures prior to construction, including vertical mulching, is encouraged. The applicant has proffered to take steps to save a Willow Oak specimen tree (T4) on-site with tree protection fencing during construction, as well as engage in

tree protection measures for specimen trees on adjoining properties. No further information is required regarding specimen, champion, or historic trees.

14. **Urban Design**—This PPS was evaluated for conformance with the applicable plans and requirements, as follows:

#### **Sector Plan**

The subject site is governed by the D-D-O standards approved with the sector plan, and the proposed commercial uses and multifamily dwellings are permitted on the property, subject to the approval of a DSP. In accordance with the sector plan, D-D-O standards replace comparable standards and regulations of the Zoning Ordinance, where applicable. Whenever a conflict exists between the D-D-O standards and the Zoning Ordinance or the 2010 *Prince George's County Landscape Manual* (Landscape Manual), the D-D-O shall prevail. For development standards not covered by the D-D-O Zone, the Zoning Ordinance or Landscape Manual shall serve as the requirements, as stated in Section 27-548.21 of the Zoning Ordinance. Conformance with the regulations and standards of the D-D-O Zone will be further reviewed at the time of DSP.

The D-D-O has more than 40 pages of development standards focused on criteria including building form, architectural elements, sustainability, streets, and open space requirements. While conformance with these requirements will be evaluated at the time of DSP, the applicant should be particularly mindful now of the D-D-O development standards that define spatial relationships within the subject site and with the surrounding neighborhood. Special attention should be paid to development standards on lot coverage, building siting, parking, and streetscape elements.

The applicant indicates that private recreational facilities are proposed to serve the needs of the new residents. However, given the site is located within the Walkable Node Character Area, an area for outdoor recreation is encouraged on-site, such as a pocket park or seating area. In addition, the applicant shall provide design elements on the mixed-use building that are compatible with the existing single-family homes in the area. An outdoor recreational area and compatibility of building design will increase the attractiveness of the area, improve the pedestrian walkability envisioned by the sector plan, and provide an appropriate transition from the vertical mixed-use development on US 1 to the adjacent residential neighborhoods. The recreational amenities and building design will be reviewed at the time of DSP.

#### **Conformance with the 2010 Prince George's County Landscape Manual**

The proposed development is subject to the Landscape Manual. The D-D-O Zone includes development district standards that replace many requirements of the Landscape Manual, and the project will be required to demonstrate conformance with the applicable development district standards and Landscape Manual requirements 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 the site to be covered by tree canopy for any development projects that propose more than 5,000 square feet of gross floor area or disturbance and require a grading permit. The prior M-U-I Zone requires a minimum 10 percent of the gross tract area to be in the tree canopy

coverage (TCC). Compliance with the TCC requirements will be evaluated at the time of DSP review.

15. **Municipalities**—The subject property is located within the municipal limits of the City of College Park. A statement from the City of College Park was read into the record at the Planning Board hearing, stating that the City of College Park City Council recommended approval of this PPS, subject to five conditions, consistent with those adopted by the Planning Board.

The subject site is within one mile of the geographical boundary of the City of Greenbelt and the Town of Berwyn Heights. This PPS was referred to both municipalities for review and comments on August 17, 2022. However, at the time of the of the Planning Board hearing, comments had not been received from these municipalities.


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 Doerner, with Commissioners Washington, Doerner, and Shapiro voting in favor of the motion, and with Commissioners Bailey and Geraldo absent at its regular meeting held on Thursday, September 8, 2022, in Upper Marlboro, Maryland.

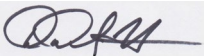
Adopted by the Prince George’s County Planning Board this 29th day of September 2022.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

PAS:JJ:AH:jah

APPROVED AS TO LEGAL SUFFICIENCY

  
David S. Warner  
M-NCPPC Legal Department  
Date: September 22, 2022