

**URBAN RENEWAL PLAN
NATIONAL VIEW**

APPENDIX A

DESIGN GUIDE

IN ACCORDANCE WITH THE FOLLOWING APPROVALS

(SEE ATTACHED APPENDIX A)

| | |
|---------------------|--|
| APPENDIX A-1 | <ul style="list-style-type: none">● Zoning Map Amendment A-10055 - Approved by the Prince George's County District Council on October 26, 2021 via Zoning Ordinance No. 6-2021; and● Zoning Hearing Examiner's Decision A-10055 |
| APPENDIX A-2 | CSP-21004 – Approved by the Prince George's County Planning Board on May 26, 2022 via PGCPB Resolution No. 2022-65; and |
| APPENDIX A-3 | 4-22060 – Approved by the Prince George's County approved by the Prince George's County Planning Board of September 7, 2022 via PGCPB No. 2023-89; and |
| APPENDIX A-4 | Detailed Site Plan Approval and any DSP Revisions - (Pending) - To be provided after certification |

*All approved revisions to drawings and plans will be transmitted to the Town of Forest Heights within 60 days of final action.

Case No.: A-10055-C
National View

Applicant: Harbor View Development, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL ZONING APPROVAL

AN ORDINANCE to incorporate the Applicant's acceptance of conditional zoning approved in Zoning Ordinance No. 6 -2021, and to grant final conditional zoning approval in Application No. A-10055-C.

WHEREAS, the District Council in enacting Zoning Ordinance 6 -2021, approved the Applicant's request to rezone approximately 20.01 acres of R-55 (One-Family Detached Residential) and R-R (Rural Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone. A portion of the property also lies within the Chesapeake Bay Critical Area and is zoned I-D-O (Intensely Developed Overlay). The subject property is located on the north side of the Capital Beltway (I-495) , adjacent to the northeast quadrant of the intersection of the Capital Beltway (I-495) and Indian Head Highway (MD 210), and is identified as 6403 and 6407 Oxon Hill Road, 100-110 Crow Way, 1-121 Chippewa Drive and 5808-6008 Bald Eagle Drive, Oxon Hill, Council District 8; and

WHEREAS, the District Council, pursuant to its decision in Zoning Ordinance 6 - 2021, deems it appropriate to accept Applicant's consent to the conditions in Zoning Ordinance 6 - 2021; and approve final conditional zoning.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. Final conditional zoning approval of Zoning Ordinance 6 - 2021, is hereby granted. Applicant's written acceptance of the conditions in Zoning Ordinance 6 -2021, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

SECTION 2. Use of the subject property, as conditionally reclassified, shall be subject to all requirements in the applicable zone and conditions referenced above. Failure to comply with the conditions of rezoning shall constitute a zoning violation and shall constitute sufficient grounds for the District Council to annul the rezoning approved herein; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; and/or to take any other action deemed necessary to obtain compliance.

SECTION 3. This Ordinance is effective October 27, 2021, the date of receipt of the Applicant's acceptance of the conditions in Zoning Ordinance 6 -2021.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF THE
MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

By: Calvin S. Hawkins, II
Calvin S. Hawkins, II, Chair

ATTEST:

Donna J. Brown
Donna J. Brown
Clerk of the Council



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

October 27, 2021

DISTRICT COUNCIL PRELIMINARY NOTICE OF CONDITIONAL ZONING APPROVAL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland, requiring notice of decision of the District Council, a copy of Zoning Ordinance No. 6 - 2021 granting preliminary conditional zoning approval of A-10055-C National View, is attached.

In compliance with the provisions of Section 27-157(b) of the Zoning Ordinance, the applicant must file a written acceptance or rejection of the land use classification as conditionally approved within ninety (90) days from the date of approval by the District Council. Upon receipt by the Clerk's Office of a written acceptance by the applicant, a final Order will be issued with an effective date for conditional approval shown as the date written acceptance was received by the Clerk's Office.

The failure to accept the conditions in writing within ninety (90) days from the date of approval shall be deemed a rejection. Rejection shall void the Map Amendment and revert the property to its prior zoning classification.

Written approval or rejection of conditions must be received by the Clerk's Office no later than the close of business (5:00 p.m.) on January 24, 2022.

CERTIFICATE OF SERVICE

This is to certify that on October 27, 2021, this notice and attached Order were mailed, postage prepaid, to the attorney/correspondent and applicant(s). Notice of final approval will be sent to all persons of record.

A handwritten signature in black ink that reads "Donna J. Brown".

Donna J. Brown
Clerk of the Council



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

October 27, 2021

**RE: A-10055-C National View
Harbor View Development, LLC, Applicant**

NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed a copy of Zoning Ordinance No. 6 - 2021 setting forth the action taken by the District Council in this case on October 26, 2021.

CERTIFICATE OF SERVICE

This is to certify that on October 27, 2021 this notice and attached Council order were mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script that reads "Donna J. Brown".

Donna J. Brown
Clerk of the Council

Case No.: A-10055-C
National View

Applicant: Harbor View Development, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 6 –2021

AN ORDINANCE to amend the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, by an individual Zoning Map Amendment.

WHEREAS, Zoning Map Amendment Application No. 10055 (A-10055) is a request to rezone approximately 20.01 acres of R-55 (One-Family Detached Residential) and R-R (Rural Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone. A portion of the property also lies within the Chesapeake Bay Critical Area and is zoned I-D-O (Intensely Developed Overlay). The subject property is located on the north side of the Capital Beltway (I-495), adjacent to the northeast quadrant of the intersection of the Capital Beltway (I-495) and Indian Head Highway (MD 210), and is identified as 6403 and 6407 Oxon Hill Road, 100-110 Crow Way, 1-121 Chippewa Drive and 5808-6008 Bald Eagle Drive, Oxon Hill, Council District 8; and

WHEREAS, the application was advertised and the property was posted prior to public hearings, in accordance with all requirement of law; and

WHEREAS, the application was reviewed by the Planning Department's Technical Staff and;

WHEREAS, Technical Staff recommended disapproval of the application; and

WHEREAS, the Planning Board adopted Technical Staff's recommendation of disapproval; and

WHEREAS, on February 10, 2021, March 24, 2021, April 28, 2021 and May 5, 2021, the Zoning Hearing Examiner held evidentiary hearings on the application; and

WHEREAS, several individuals appeared in support of and in opposition to the Application; and

WHEREAS, at the conclusion of the final hearing the record was left open to allow Applicants to submit additional information. These items were submitted on May 14, 2021 and the record was closed at that time; and

WHEREAS, on July 20, 2021, the Examiner recommended that the application request, to rezone approximately 20.01 acres of R-55 (One-Family Detached Residential) and R-R (Rural Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone, be approved subject to conditions; and

WHEREAS, a hearing was held before the District Council on October 25, 2021; and

WHEREAS, having carefully considered the issues raised by the opposition at oral argument on October 25, 2021, the District Council adopts, and incorporates by reference, the Examiner’s findings and conclusions on each issue raised by the opposition; and

WHEREAS, as a basis for this final decision, the District Council adopts, and incorporates by reference, the Examiner’s recommendation as its own to conditionally rezone the subject property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George’s County, Maryland, is hereby amended to rezone approximately 20.01 acres of R-55 (One-Family Detached Residential) and R-R (Rural Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone, located on the north side of the Capital Beltway (I-495),

adjacent to the northeast quadrant of the intersection of the Capital Beltway (I-495) and Indian Head Highway (MD 210), and is identified as 6403 and 6407 Oxon Hill Road, 100-110 Crow Way, 1-121 Chippewa Drive and 5808-6008 Bald Eagle Drive, Oxon Hill, Council District 8.

SECTION 2. The request to rezone approximately 20.01 acres of R-55 (One-Family Detached Residential) and R-R (Rural Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone, located on the north side of the Capital Beltway (I-495), adjacent to the northeast quadrant of the intersection of the Capital Beltway (I-495) and Indian Head Highway (MD 210), and is identified as 6403 and 6407 Oxon Hill Road, 100-110 Crow Way, 1-121 Chippewa Drive and 5808-6008 Bald Eagle Drive, Oxon Hill, Council District 8, is hereby APPROVED, subject to the following conditions:

- (1) Prior to Conceptual Site Plan review and the issuance of any permit Applicant shall submit written evidence from the SHA indicating its approval of the proposed access to the property via the state-owned right-of-way and with Mr. Lenhart's March 16, 2021 response to SHA's concerns with the Traffic Study (Exhibit 72).
- (2) The request will be subject to Conceptual and Detailed Site Plan approval in accordance with the strictures found in Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement). Additionally, special attention should be given to the development's compatibility with the surrounding area and any restrictions associated with the I-D-O Zone, as well as some appropriate recognition of the historic Butler House property.
- (3) The Conceptual Site Plan shall include the following:
 - (a) A general description of the pedestrian system proposed;
 - (b) The proposed floor area ratio;
 - (c) The type and location of uses proposed, and the range of square footage anticipated to be devoted to each;
 - (d) A general description of any incentives to be used under the optional method of development;

- (e) Areas proposed for landscaping and screening;
 - (f) The proposed sequence of development; and
 - (g) The physical and functional relationship of the project uses and components.
- (4) The following information shall be included on the Detailed Site Plans:
- (a) The proposed drainage system;
 - (b) All improvements and uses proposed on the property;
 - (c) The proposed floor area ratio of the project, and detailed description of any bonus incentives to be used; and
 - (d) Supporting evidence which shows that the proposed development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program or within the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in a specific public facilities financing and implementation program, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plan approval, whichever occurred last.
- (5) In addition to the findings required for the Planning Board to approve either the Conceptual or Detailed Site Plan (Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement), the Planning Board shall also find that:
- (a) The proposed development is in conformance with the purposes and other provisions of Part 10, Division 2, Subdivision 1 of the Zoning Ordinance (2019 Edition, 2020 Supplement);
 - (b) The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;

- (c) The proposed development is compatible with existing and proposed development in the vicinity;
- (d) The mix of uses, arrangement and design of buildings and other improvements, and provision of public amenities reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;
- (e) If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;
- (f) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity within the development and the immediate area and sidewalk improvements, internal pedestrian connections, connectivity with adjacent properties and other pedestrian-oriented development shall be evaluated;
- (g) On the Detailed Site Plan, in areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial); and, in areas adjacent to existing homes or the adjacent park adequate attention has been paid to minimize any adverse impact of design or other amenities on these areas;
- (h) Applicant has submitted a noise study and shall use the appropriate noise and vibration mitigation measurements in developing the property; and
- (i) On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant (either wholly or, where authorized pursuant to Section 24- 124(a)(8) of the County Subdivision Regulations, through participation in a road club).

SECTION 3. A building permit, use permit, or subdivision permit may not be issued or approved for the subject property except in accordance with the conditions set forth in this Ordinance.

SECTION 4. If the Applicant fails to accept the land use classification conditionally approved in this Ordinance, in writing, within ninety (90) days, the subject property shall revert to the R-55 (One-Family Detached Residential) and R-R (Rural Residential) Zones.

SECTION 5. BE IT FURTHER ENACTED that this Ordinance shall become effective on the date of its enactment.

ENACTED this 26 day of October, 2021, by the following vote:

In Favor: Council Members Davis, Franklin, Glaros, Harrison, Hawkins, Taveras, and Turner.

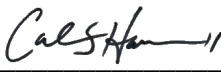
Opposed:

Abstained:

Absent: Council Members Anderson-Walker, Dernoga, Ivey, and Streeter.


Vote: 7-0.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF THE
MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

By: 

Calvin S. Hawkins, II, Chair

ATTEST:



Donna J. Brown
Clerk of the Council

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

ZONING MAP AMENDMENT

A-10055

DECISION

Application: R-R and R-55 to M-X-T
Applicant: Harbor View Development, LLC
Opposition: IHAAC, Tina McDowell, Karen Egloff, et. al.
Hearing Dates: February 10, 2021, March 24, 2021, April 28,
2021 and May 5, 2021
Hearing Examiner: Maurene Epps McNeil
Recommendation: Approval with Conditions

NATURE OF REQUEST

- (1) A-10055 is a request for the rezoning of approximately 20.01 acres of R-55 (One-Family Detached Residential) and R-R (Rural Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone. A portion of the property also lies within the Chesapeake Bay Critical Area and is zoned I-D-O (Intensely Developed Overlay).
- (2) The Applicant is Harbor View Development, LLC, the developer is Petra Development, LLC and the project is known as National View. The State Department of Assessments and Taxation ("SDAT"), the District of Columbia, and the Commonwealth of Virginia, respectively, have certified Harbor View Development, LLC, the Petra Design Group and Petra Development, LLC, respectively, as being in good standing to conduct business within their jurisdictions. (Exhibits 99, 102 and 100)
- (3) The subject property is located on the north side of the Capital Beltway(I-495) , adjacent to the northeast quadrant of the intersection of the Capital Beltway (I-495) and Indian Head Highway (MD 210), and is identified as 6403 and 6407 Oxon Hill Road, 100-110 Crow Way, 1-121 Chippewa Drive and 5808-6008 Bald Eagle Drive, Oxon Hill, Maryland. The Technical Staff provided further the Capital Beltway (I-495) is classified as a freeway and Indian Head Highway (MD 210) is classified as an arterial.
- (4) The Technical Staff recommended disapproval of the original Application and the Planning Board adopted Staff's recommendation as its own. (Exhibits 1 and 4)
- (5) Several individuals appeared in support of and in opposition to the Application.

(6) At the conclusion of the final hearing the record was left open to allow Applicants to submit additional information. These items were submitted on May 14, 2021 and the record was closed at that time. (Exhibits 117 and 118)

FINDINGS OF FACT

Subject Property and Surrounding Uses

(1) The subject property is comprised of two abutting sites – Section 16 within the Forest Heights Subdivision in the Town of Forest Heights and the adjoining Butler property to the south. The Technical Staff offered the following description of these two sites:

The northern portion lies within the Town of Forest Heights and is in the R-55 Zone. This section was platted in April 1956 and is comprised of Lots 61-91 in Block 122, Lots 13-24 in Block 123, and Lots 8-14 in Block 124, recorded in [the] Land Records Prince George's County, Maryland as Forest Heights, Section 16 at Plat Book 28, Page 5. The single-family lots were never developed and the site has remained vacant.

The southern section of the proposed site is known as the Butler property and is located in the ... R-R Zone. The property is mostly wooded but has two historic residences and an existing electric utility right-of-way. The site is comprised of Parcels 26, 32, 33, 35, 36, and 37, which are not mapped within the Forest Heights municipal boundary. This section contains the Butler House (PG:76A-014/National Register), a Prince George's County historic site that was designated in 1981 and was listed in the National Register of Historic Places in March 2005. The Butler House property is adjacent to Mount Welby (PG:76A-013/National Register), also a Prince George's County historic site (designated in 1981), that is owned by the National Park Service and located within the Oxon Cove Farm. The Oxon Cove Farm property was listed in the National Register of Historic Places in September 2003. At least four outbuildings were located on the subject property from approximately 1965 until 1998, when the outbuildings were demolished....

(Exhibit 1, p. 4)

(2) The site has approximately 81.45 feet of frontage on the Capital Beltway/Indian Head Highway interchange; appr3,040.86 feet of frontage along Bald Eagle Drive; approximately 968.44 feet (centerline length) along Crow Way; and, approximately 422.63 feet (centerline length) along Chippewa Drive. (Exhibit 60)

(3) The site is accessed via Bald Eagle Drive, an unimproved road that extends throughout the property and connects with an off ramp from Indian Head Highway (MD 210). Despite its historic past (connecting Oxon Hill to Washington D.C. since approximately 1850) it is not identified as an historic or scenic road. (Exhibit 1, Backup p. 72)

(4) The subject property is surrounded by the following uses:

- North – Single-family detached dwellings in the R-55 Zone and federal parkland in the R-O-S Zone
- South – Bald Eagle Road
- East – Single-family detached dwellings in the R-55 Zone and federal parkland in the O-S Zone
- West – Federal parkland in the R-O-S Zone

(5) The Technical Staff established a neighborhood for the site with the following boundaries:

- North – Federal parkland in the R-O-S Zone at the Prince George's County and District of Columbia boundaries
- South – The Capital Beltway (I-495), a master plan freeway
- East – Indian Head Highway (MD 210), a master plan arterial roadway.
- West – Federal parkland in the R-O-S Zone at the Potomac River waterfront (Oxon Cove Farm, Mount Welby)

(Exhibit 1, p. 4) Applicant agreed with the neighborhood proffered by the Technical Staff. (Exhibit 67; May 5, 2021, T. 8-9)

Master Plan/Sectional Map Amendment/General Plan/Functional Plans

(6) The subject property lies within the Established Communities policy area discussed in the 2014 General Plan ("Plan 2035"). The General Plan provides that "Established Communities are most appropriate for context-sensitive infill development and low-to medium-density development." (2014 General Plan, p. 20) The General Plan also designated Regional Transit District and Local Centers and recommends directing the majority of future employment and residential growth to the Districts, and medium to medium-high residential development with limited commercial uses to the Centers. (General Plan, p. 19) The Technical Staff noted that the General Plan "specifically recommends Residential Low land use for the northern properties and Parks and Open space land use for the southern properties , as seen [on] ... Map 10, page 101...." (Exhibit 1, p. 5) That page of the General Plan also provides, in pertinent part, as follows:

The Generalized Future Land Use Map is not a zoning map and is not intended to identify land uses and zoning for specific properties....

This map generalizes future land use designations as shown in approved sector and master plans. It does not follow parcel boundaries, and its land use categories do not identify permitted uses or imply dimensional standards. By definition, this map should be interpreted broadly and is intended to provide a countywide perspective of future land use patterns. To identify the future land use designation for a specific property, please refer to the property's relevant approved sector or master plan....

(2014 General Plan, p. 101)

(7) The Technical Staff opined that the request substantially impairs certain provisions of the two Master Plans that govern portions of the site (The 2000 The Heights and Vicinity Master Plan and the 2014 Eastover-Forest Heights-Glassmanor Sector Plan) and believes the request cannot further the policies of the 2017 Countywide Green Infrastructure Plan, as discussed more fully below.

Applicant's Request

(8) Applicant requests a rezoning of approximately 20.1 acres from the R-R and R-55 Zones to the M-X-T Zone. A portion of the property also lies within the I-D-O (Intense Development Overlay) Zone of the Chesapeake Bay Critical Area. Applicant initially proposes to develop the property with a 374-bed assisted living facility, 204 room hotel, 1,402 high-rise apartments, and 120,000 square feet of retail space (that may be located on the first floor of a high rise building and not in a strip of commercial uses. (Exhibit 22, p. 4). Applicant also proposes to expand bicycle and pedestrian connectivity to existing trails in the area. (Exhibit 20)

(9) Eli Borek, the director of development for Petra Development, will be managing the project if the instant request is approved. In 2018, when Petra Development decided to pursue the project, he reached out to community stakeholders, the Town of Forest Heights, and other government agencies and officials to advise them of their plans and to receive feedback. (March 24, 2021 T. 191-192) Applicant ultimately decided to file the Application:

So, the MXT zone really seems to offer the most appropriate opportunity for sufficient density to justify developing the property, while also providing the flexibility needed to create a truly cohesive mixed use community here. The location of the site ... is really exceptional from an accessibility standpoint; we're ... within 10 to 15 minutes of Arlington, Amazon Headquarters, Alexandria, ... National Airport, Washington D. C., National Harbor. I mean it's ... just a fantastic location from an accessibility and transportation standpoint. We ... really view the ... site as a natural extension of National Harbor['s] kind of growth area....

[We are aware that a portion of this site is a County historic site and a National Register site.] [O]n multiple occasions we reached out to the direct descendants of Henry Alexander Butler and we were able to gain some valuable knowledge about the history of the property and their family's stewardship of it. And we spoke to people who actually have lived on and spent time at the property when it was still being used as a farm; and they ... possess both knowledge and materials [and] actually ... they expressed they would like to see included in the historic storytelling that we're ... proposing on the site....

(March 24, 2021 T.194-196)

(10) Mr. Borek presented Applicant's vision of development for the site, including: a walkable, bikeable community accessible by public transit and with tie-ins to the Potomac

Heritage Trail network; a new police substation to relieve burden on the Town of Forest Heights; a mix of different housing types for a mix of income ranges; use of sustainable elements such as green roofs and solar panels; community gardens; and open/green spaces. (Exhibit 66; April 28, 2021 T. 199-209)

(11) Mr. Alan Hansen, accepted as an expert in the area of architecture, testified on Applicant's behalf. Mr. Hansen disagreed with the Technical Staff's finding that the Application could significantly impact the viewshed of the Oxon Hill Farm National Park:

First, the National View buildings will be approximately 1,500 to 2,000 feet away from the historic structures; second, most of the development on the site will be obscured by a thick forest of mature trees; and then once designed, the heights of the buildings will vary and step down in height as one move[s] northward from the Beltway towards the Forest Heights neighborhood. This will cause National View to better relate to the smaller scale residences. The change in natural grade elevation alone drops 125 feet from the Beltway, or south, to north. Finally, we also believe there will be many areas of the park and farm where National View will not be visible at all....

I want to re-emphasize that this is a rezoning application, and I want to stress that the National View buildings have not been designed.... [W]hat we have to date is a simple building envelope....

(April 28, 2021 T. 74)

(12) Mr. Hansen prepared a power point presentation for the Historic Preservation Commission. (Exhibit 42 (b)) A 360-degree panoramic photo shows the distance between Mount Welby House and National View - approximately 1,700 feet, per the witness. The power point then shows the possible maximum height of buildings within the development, and how much of these buildings can be seen from various vantage points. A similar power point was prepared to show "potential historic interpretation projects" in honor of the Butler House and Mount Welby. (Exhibit 42(a); April 28, 202 T. 84-90)

(13) Rachel Lightsinger, a civil engineer, testified on Applicant's behalf. She and her firm prepared two Natural Resource Inventories for the northern and southern portions of the site (NRI-146-2019 and NRI-184-14)¹ that were reviewed and approved by MNCPPC.(April 28, 2021 T. 39) Ms. Lightsinger provided a counterpoint to many of the environmental concerns raised by the Technical Staff in its report, including its belief that inadequate soils, steep slopes, and possible flooding of homes along Cree Drive should preclude further consideration of the request. She noted in a letter to the developer that "additional borings along the [n]orthern boundary of the site" were performed and revealed that "the in-situ soils were found to be of the course grained variety, which are also less prone to erosion"; and "[t]he site also features a deep groundwater table, which provides natural stormwater storage volume in the void space of soils and rocks found below the surface." (Exhibit 50, p. 1) The letter concluded that she is aware of the flooding issues that could affect the downstream properties and the project will be designed in a

¹ The Environmental Planning Section of the Technical Staff noted that NRI-184-14 has expired. (Exhibit 1, Backup p. 71)

manner to preclude runoff on the properties along Cree Drive. Ms. Lightsinger agreed with People's Zoning Counsel that this evidence may not be germane at this point in the process (i.e. the review of a rezoning request). (April 28, 2021 T. 44)

(14) As noted above, the subject property has approximately 81.45 feet of frontage along the Capital Beltway (I-495)/Indian Head Highway (MD 210) interchange, approximately 3,040.86 feet of frontage along Bald Eagle Drive, approximately 968.44 feet of frontage along Crow Way, and approximately 422.63 feet of frontage along Chippewa Drive. Both Indian Head Highway and the Capital Beltway are classified as an arterial or higher within the Countywide Master Plan of Transportation. Mr. Michael Lenhart, accepted as an expert in transportation planning, provided written analyses (Exhibits 22 and 81)² and oral testimony that opined that the subject property is within the vicinity of the major interchange noted above and that the transportation facilities will be adequate to carry anticipated traffic for the proposed development. Mr. Lenhart's testimony as to adequacy was, in relevant part, as follows:

[T]he guidelines ... [allow] for up to a level of service E [as an acceptable level of service] inside the Capital Beltway....

The study included five intersections[,] Maryland 210 at the southbound I-95 ramps... and the Bald Eagle Road intersection was projected to operate at a level of service F with no improvements. We did identify an improvement that was to widen Bald Eagle Road approaching Maryland 210 to provide a separate right turn lane, and that mitigates our impact and gets the intersection back to a level of service E, which is acceptable.

Bald Eagle Road at the park driveway and site driveway was projected to operate at inadequate delays as a normal stop-controlled intersection with no improvements. It's standard practice in the guidelines that if an unsignalized intersection is projected to operate with delays in excess of 50 seconds per vehicle, that there would be a condition that requires a signal warrant analysis and install a signal if required; or evaluate other options to address the delays.

[W]e looked at several options where we reconstructed the ... existing driveway park entrance on Bald Eagle Drive into a T intersection, and we also looked at the possibility of a roundabout at that location. [A]nd based upon our study, we recommend a roundabout.... State Highway also supported that option and our study found that all other intersections were determined to operate within acceptable parameters....

[The Technical Staff] reviewed the study and referred it out to State Highway. It should be noted that the Technical Staff, Transportation Planning Staff, concurred with the findings of our study and agreed with our findings that transportation facilities would be adequate....

[State Highway has looked at our latest concept for Bald Eagle and] [t]hey had few comments. Actually [,] we're on our third submittal to the State to work through their comments. During the first submittal, they had concerns about the ... two T intersection

² Exhibit 22 is the original traffic study updated on July 16, 2020. M. Lenhart produced a revised, Exhibit 81, analysis due to the age of the traffic counts once the Application was accepted.

options that we proposed, so we went back to the roundabout option. They have reviewed that option. They have indicated that, or they have stated that they support the roundabout option at the Bald Eagle and the driveway access, and they believe that that will work adequately; and they had [a] few other comments still with offsite issues and queuing issues out on Oxon Hill Road for left turn queuing. Our latest submit[ta] addressed those issues and we expect ... an approval ultimately from the State....

Bald Eagle Road is a state roadway ... and the entrance to the park driveway is located in the state right-of-way that is the Bald Eagle Road alignment. There is [a] SHA plat that I believe is Exhibit 76... [and on Exhibit 80] you can see this property is shown in blue ... and it's outlined; and then the yellow hash lines represent the entrance into the site. You can see where the bridge is over the Capital Beltway. That is Bald Eagle Road. And the driveway off of Bald Eagle Road that goes into the park entrance is located in State Highway right-of-way. The black ... solid line that you see denotes State Highway right-of-way.... Bald Eagle Road is entirely within State right-of-way. The park entrance is entirely within the State right-of-way. Even all the way back, almost to the parking lot for the park entrance, that is all State Highway right-of-way....

[I]n the Technical Staff Report they made a comment that it's not a viable access point to handle the traffic without generating negative impact on abutting single-family neighborhood; and I do not agree with that comment. Bald Eagle Road has zero driveways or entrance points to any other residential neighborhoods; in fact, the residential neighborhood to the north of this property, the access to that neighborhood is off of Route 210, about half a mile north of the traffic signal at this ... southbound 95 [off ramp] and the Bald Eagle intersection. So, this entrance will in no way impact any existing neighborhoods.

At the roundabout, we have prepared a Concept Plan that has been reviewed and approved by State Highway; and we will need a State Highway access permit to build that; but all of the work will be within the State right-of-way, not National Park Service road.... [I do not believe we need National Park Service permission regarding access.] The driveway, again, is completely within State Highway right-of-way, and the Bald Eagle Drive, if you look on the record plat and the deeds, there was a 30-foot prescriptive right-of-way and that runs up through the property. They kind of [denote] the western edge of the property going, well, from north to south from that park entrance.

(April 28, 2021 T. 159-166)

(15) Mr. Lenhart provided the following testimony as to the site being within the vicinity of a major intersection/interchange:

[The term interchange is not defined in the Zoning Ordinance. It is defined in] AASHTO, which is [the] American Association [of] State Highway Transportation Officials[.] [I]t's ... a national organization that has many publications on design and planning [.] and they define an interchange as a system of interconnecting roadways in conjunction with one or more grade separations that provides the movement of traffic between two or more roadways or highways of different levels....

So interchange includes a series of grade separated bridges and overpasses, and ramps connecting two roadways. This would include any merge lanes, the [merge] weave areas,

or... terminus points and other connecting roads; and while Bald Eagle Road itself is not an on[-]ramp... or off-ramp, there is connectivity at the interchange, and existing guide signage. If you are on southbound 95 and you take the offramp to Route 210, there's guide signs immediately on the west side of Route 210 for people getting off of... 95 guiding motorists to use Bald Eagle Road to get to National Harbor, Gaylord Convention Center, MGM, and the Tanger Outlet shops; and it's clear that the Bald Eagle Road is intended as a connection for, for the overall interchange; and also,... it is identified as an interchange in the right-of-way via P.G. Atlas... and there's a transportation layer on... the GIS system; and if you turn that transportation layer on, it includes Bald Eagle Road as part of the overall interchange....

[I]n the case of Bald Eagle Road, there was a denial of access that was placed upon the ... United States of America property that's immediately east of the National View property, between National View and Bald Eagle Road; and State Highway Administration, when they acquired the right-of-way, they placed a denial of access along the entire frontage of that USA property; and so... if you are getting off of the I-95 interchange and you come across from Bald Eagle Road, the entrance to our property is the first potential point of access where you can actually interact with traffic to and from the interchange....

[The Technical Staff] simply made a statement that the traffic is not located within one-half mile of where the Beltway and Maryland 210 cross; and they referred to the center point of the interchange; and then they discussed the walkability to and from the site in relation to the center point of the interchange, which [is] not practical because you ... cannot walk to the center point of the interchanges. It's not a ... valid point of reference in my opinion....

[T]he access is located less than a third of a mile from the intersection of 210 at the on and off ramps of I-95. It's the first allowable point of access along Bald Eagle Road from the offramp. The signalized intersection of 210 at the on and offramps from southbound 95 is an arterial or higher intersection. Maryland 210 is an arterial, and the offramp from the Beltway is a freeway ramp. So, that does qualify as the... arterial criterion....

A precedent has been set in prior... cases using the definition of neighborhood. Vicinity is not defined in the Zoning Ordinance and... it's been agreed that... since the lack of that definition allows us to go to other sources, and Webster's Dictionary defines vicinity as neighborhood....

I do not concur with [Staff's] opinion. Again, they arbitrarily used the half mile from a center of an interchange. Nowhere in the Zoning Ordinance do they say it has to be a half mile, or does it talk about the center of an interchange. It simply says vicinity, and if you look at the P.G. Atlas transportation layer, considering that Bald Eagle Road is part of the interchange, this entire tract is located within a half mile of the interchange boundary; and again, ... if you look at the interchange, inclusive of Bald Eagle Road, it is within a half mile; but I think vicinity is really the more important term here and, again, it is in the neighborhood, the same neighborhood as the interchange....

(April 28, 2021 T. 167 -172)

(16) Mr. Lenhart also addressed M-X-T purposes 1 and 4 dealing with transportation and opined that these were met since the site is within the vicinity of the interchange of two streets classified as arterial or higher and, "with regards to transit, walking, biking,

etc.” because Oxon Hill Road has exclusive bike lanes along both sides and the Oxon Hill Farm trail (a shared roadway trail), sidewalks and the bus routes on 210 will ensure proximity to buses, walking and biking. (April 28, 2021 T. 173-174)

(17) The Zoning Ordinance also requires a finding that the approval of M-X-T zoning at the subject property will not substantially impair the integrity of the General Plan and that it be in keeping with the purposes of the M-X-T Zone. Mark Ferguson, accepted as an expert in the area of land use planning, provided a Land Use Analysis that included the following observations about impairment of the two Master Plans:

The Goal of the Heights Plan’s Residential Neighborhoods element is, “to preserve and protect existing neighborhoods by promoting maintenance programs as well as new and diverse quality residential development.” To further that Goal, the Plan recommends a Concept of, “utilizing urban design principles to ... develop effective buffering between conflicting adjacent land uses.” This planner would argue that the approval of the M-X-T Zone at the subject property would allow for the creation of diverse residential development, and the extensive public reviews inherent in the regulations of the M-X-T Zone would ensure the creation of effective buffering between proposed land uses and the subject property’s surrounding neighbors, and balance the difference between the mapped land use recommendation and the zone requested by this application. As such, the approval of the instant application would not be a substantial impairment of the Heights Plan’s land use recommendations. There is no discussion at all of either the Butler tract or the Forest Heights tract in the Residential Neighborhoods element, however, because of the historic occupancy of the Butler family and the presence of the recorded lots on the Forest Heights tract which predated the incorporation of the presence of the recorded lot on the Forest Heights tract which predated the incorporation of the surrounding neighborhood into the Maryland Washington Regional District in 1957, it is unlikely that any land use planning attention has ever been paid to the subject property. The conformance of the subject application to the Environment element of the Heights Master Plan was discussed exhaustively by Staff in the Technical Staff Report. Staff notes that the approval of the requested rezoning would result in a reduction to the application woodland conservation threshold from 20% to 15%, and states that, “These reductions encourage, more woodland clearing, more impervious surface more stormwater runoff and more litter. This planner would note with some discreet asperity that stormwater must necessarily be managed so as not to create more runoff from a site in its post-development condition regardless of the zone in which that property is classified, and wonders why impervious rea is related to litter generation. In the end, Staff states that they believe that the propose rezoning “would not be consistent with environmental goals,” but do not go so far as to call the rezoning a substantial impairment of the Plan from an environmental perspective. This planner would go further and state that the adherence to the Plan’s environmental goals is a function of the site design, and not the zoning, as such the approval of the subject application would not substantially impair the Heights Plan’s Environmental element....

There is no discussion at all of either the Butler tract or the Forest Heights tract in the Residential Neighborhoods element, however; because of the historic occupancy of the Butler family and the presence of the recorded lots on the Forest

Heights tract which predated the incorporation of the surrounding neighborhood into the Maryland-Washington Regional District in 1957, it is unlikely that any land use planning attention has ever been paid to the subject property. The Goal of the Heights Plan's Residential Neighborhoods element is "to preserve and protect existing neighborhoods by promoting maintenance programs as well as new and diverse quality residential development." [Citations omitted.] This planner would argue that the approval of the M-X-T Zone would ensue the creation of effective buffering between proposed land uses and the subject property's surrounding neighbors, and balance the difference between the mapped land use recommendation and the zone requested by this application. As such, the approval of the instant application would not be a substantial impairment of the Heights Plan's land use recommendations.

The conformance of the subject application to the Environment element of the Heights Master Plan was discussed exhaustively by Staff in the Technical Staff Report. Staff notes that the approval of the requested rezoning would result in a reduction to the applicable woodland conservation threshold from 20% to 15%, and states that, "These reductions encourage, more woodland clearing more impervious surface more stormwater runoff and more. This planner would note with some discreet asperity that stormwater must necessarily be managed so as not to create more runoff from a site in its post-development condition regardless of the zone in which that property is classified, and wonders why impervious rea is related to litter generation. In the end, Staff states that they believe that the proposed rezoning "would not be consistent with environmental goals," but do not go so far as to call the rezoning a substantial impairment of the Plan from an environmental perspective. This planner would go further and state that the adherence of the Plan's environmental goals is a function of the site design, and not the zoning and as such the approval of the subject application would not substantially impair the Heights Plans environment....

(Exhibit 60, pp. 9-10)

(18) Mr. Ferguson also addressed the Application's compliance with the purposes of the M-X-T Zone, noting that:

- the property is adjacent to and directly connected to the National Harbor Regional Transit District and the Oxon Hill Local Neighborhood Center, and abuts the major interchange of the Capital Beltway and Indian Head Highway and the interchange of the Capital Beltway and I-295 also lie within the defined neighborhood of the subject property, thereby satisfying Purpose No. 1.
- Although the General Plan, Master Plan and Sector Plan do not specifically recommend mixed land uses for the subject property the Heights and Vicinity Master Plan does recognize the Woodrow Wilson Bridge as a gateway into the County and approving the instant request would provide another attractive, welcoming entrance into the County; the same Master Plan includes a Goal the preserve and protect existing neighborhoods by promoting maintenance programs as well as new and diverse quality residential development and includes a concept of using urban design principles to develop effective buffering between conflicting

adjacent land uses; the General Plan includes a policy to limit future mixed-use land uses outside of the Regional Transit Districts and Local Centers but does not state that such uses shall only occur within these areas; the General Plan included a Land Use Policy and Strategy urging the coordination of land use planning with County Municipalities and Applicant has received strong support from the Town of Forest Heights for the mixed use development of the site; and, the Eastover Master Plan includes a redevelopment goal of property value creation and economic development as well as recommending density needed to support the commercial area surrounding the Eastover Shopping Center - the instant request is close to that shopping center and will allow sufficient density to support businesses and mixed uses that can contribute to the revitalization thereof. Thus Purpose 2 is met.

- The location of the site (abutting a major interchange and in the vicinity of a second major interchange) and its proposed density will provide a greater return on the public investment in the surrounding infrastructure. Thus Purpose 3 is met.
- There are a series of existing and planned trails running through or right past the site that can be completed if the request is satisfied and the site is close to the Oxon Hill Park and Ride facility. Therefore Purpose 4, which urges the promotion of the effective and optimum use of transit and facilitation of walking, bicycling and transit use, is met.
- The mix of residential, retail and hotel use will encourage a 24-hour environment. Thus Purpose 5 is met.
- The review process will ensure a harmonious blend of the mix of land uses, and the creation of dynamic functional relationships among the individual uses, and land planning that focuses on the use of economies of scale, innovative stormwater management techniques, and provisions of public facilities, thereby satisfying Purposes 6, 7 and 8.
- The approval of the request will provide Applicant the flexibility to include multiple land uses that promote economic vitality and investment, thereby satisfying Purpose 9.
- Approval of the request at this location will allow the opportunity to minimize the effects of noise from the nearby roadways and provide the appropriate transition from the adjacent single-family residential development, thereby meeting Purpose 10.

(Exhibit 60)

(19) Finally, Mr. Ferguson agreed with Mr. Lenhart's position that the property lies within the "vicinity" of an interchange because the dictionary defines vicinity as "the neighborhood". (May 5, 2021 T. 10) He presented exhibits that show the limits of two interchanges in the neighborhood of the subject property (Exhibits 51, 67 and 82; May 5, 2021 T. 10-11), and offered the following explanation as to why he believes, from a land use perspective, Staff's decision to measure from the crossing point of the interchange is incorrect:

[T]he relationship of the M-X-T zone to the transportation element is really what I just described. It's ... really to bring together that nexus of activity that's associated with high-

volume transportation facilities with high-intensity land use; and really transportation-oriented uses; and that's more than just transit orientation. Transit orientation is a component, but not the sole component of transportation orientation; and ... because transit trips ... are only 12 to 15 percent of total vehicle trips ... the vast majority of transportation activity is still, and in my opinion will remain, vehicle-oriented.

So, what you ... want to do with the MXT zone is orient intense uses to intense transportation facilities; and that way they can draw their occupants, their visitors, their patrons from that high transportation facility nearby, not to spread high traffic through roads and other facilities that are not designed for them [,] to leave quieter areas for quieter development, and to focus loud and busy areas around busy facilities.... [Y]ou're trying to capitalize on the vehicular traffic that ... may be transit, you know, bus vehicular; but [a] supportive mix of uses and higher densities, intensities which are supported by the MXT zone....

[S]taff said ... the idea is a half mile walking distance from the crossing point of the interchange ...[is] how they analyzed it.... [A]s Mr. Lenhart testified, and I certainly agree from a land use perspective, ... walking distance is important, but you have to measure it from somewhere that you can walk from and, you know, the center point of an interchange of two high-classification roads like Indian Head Highway and ... I-495 is about the most hostile environment to pedestrians that there is. Really, when you ... look at Exhibit 67 and you see just how far those elements of the interchange extend from the center point, you'll see that it, it really is about a mile to cross the interchange from one of its ends to the other; and very often, even basic pedestrian needs, such as sidewalks, don't exist because from a pedestrian standpoint, there's no there, there. There's nowhere for you to go. There won't be any bus, ... there won't be any buildings; there won't be any bus stops.... All you're doing is crossing from one end to the other. So, pedestrian orientation to the crossing point of an interchange is, it's nonsensical....

[The subject property is located within the vicinity of this interchange.] this is the first property that you can get to in the northwest quadrant fo the interchange.... Everything else is denial of access; and so, and, in fact, as you can see from Exhibit 67 ... the subject property actually fronts on the interchange. So, it absolutely is within the vicinity....

[Exhibit 76] is SHA Plat No. 17273, which was the state right-of-way plat that illustrated the taking for the interchange of the northwest quadrant of... Indian Head Highway, Maryland 210 and 495. The subject property is outlined in red on it.... [and... the entrance to the subject property has frontage on and vehicular access to the state property which encompasses the interchange....]

(May 5, 2021 T. 14-19)

(20) Several citizens testified in support of the Application, generally citing:

- A need for walkable communities
- Housing for a mixed income community with affordable housing as well as in with market condos and rentals
- A "facelift" for the Forest Heights area with quality housing and utilization of environmentally friendly green building materials

- Creation of jobs
- Less need to travel elsewhere for groceries, retail shopping, restaurant, and exercise
- Much needed senior community housing
- Long term viability for the Town of Forest Heights
- Ability to complete local trail network and access areas

(March 24, 2021 T. 12-13, 24-25, 45, 50 - 52, 55, 59; April 28, 2021 T. 116-118)

(21) The Neighbors for Fort Washington Commercial Development, a nearly 800-member group, noted its support for the Application:

Petra Development's request... represents a forward-thinking "smart development" mindset that can catalyze commercial tax revenue growth, increased property valuation, and improved residential quality of life. Additionally, the inclusion of senior living options allows citizens to "age in place" in a lively, energetic atmosphere where they aren't forgotten. We applaud that!

During Petra Development's presentation to our members, they expressed their commitment to collaborate with Forest Height's residents to design a plan that included community gardens, culturally-sensitive art, and an enhanced trail network. This was a welcome declaration that, to us, signaled a holistic approach to neighborhood building.

Commercial development always features complex variables and this will be no different. Development must be balanced with conservancy, traffic studies need to reflect current patterns, and storm water management plans must be transparent and innovative. We feel strongly that this can all be accomplished if Petra Development, local community groups, and Prince George's government work together....

(Exhibit 95)

Opposition's concerns:

(22) The National Parks Conservation Association's ("NPCA") Senior Program Director, Pamela Goddard, provided the following testimony on behalf of the NPCA.

I am writing on behalf of the National Parks Conservation Association and our 28,000 Maryland members and supporters to urge you to deny the request to rezone land abutting Oxon Cove Park from R-R and R-55 to M-X-T for the National View development project. Not only is the proposed rezoning at odds with Prince George's County plans, it would negatively impact Oxon Cove Park and Oxon Hill Farm, important national park sites in the region.

The mission of the National Parks Conservation Association (NPCA) is to protect and enhance America's National Park System for present and future generations. We have upheld this mission since NPCA was created in 1919 by the very first National Park Service Director Stephen Mather. A key component of our mission is to bring

visitors into the parks for recreation and service. For the last ten years, we have hosted volunteer cleanups at Oxon Cove Park in support of our mission and the park.

Oxon Cove Park

Oxon Cove Park is a gem in the region, sharing with visitors to its rich history and important outdoor spaces. The land was farmed by the Piscataway Indians before 1600, weathered the War of 1812, and hosted a hospital for the mentally ill in the early 1900s. Today the 500-acre park introduces guests to a working farm, provides a popular site for birding and fishing, and hosts critical open space for outdoor recreation like hiking and cycling.

Oxon Cove Park features fourteen buildings, including Mount Welby, built in 1805 by the Debutts family as their family home. Mount Welby was designated a Prince George's County historic site in 1981 and was listed in the National Register of Historic Places in 2003. Visitors enter the park on Bald Eagle Road, a road that historically connected Oxon Hill to Washington DC since 1850. The road's design dates back to the time of the horse and buggy. During the 1800's, the Berry Plantation comprised the southern part of the park. In 2005, Oxon Cove Park was accepted as a member of the National Underground Railroad Network to Freedom to share the story of Jacob Shaw, a man enslaved at the Berry Plantain who escaped to seek freedom in Washington DC.

The adjacent property subject to development was formerly homes to several prominent free African American families including the Butlers, the Hattons, and the Proctors. Henry Alexander Butler, a free African American, moved his family to this site in 1853 and the property remained in the ownership of his family for more than 150 years. These families owned their own property and farmed their own land, highly unusual in their era. Although most of the buildings are gone, historic resources could exist that should be discovered through archaeology and lidar. If the property is developed, these historic resources will disappear.

Negative Impacts to Oxon Cove Park and the Adjacent Community

If the zoning is changed and this project is built, Oxon Cove Park and the greater community will face many negative impacts in addition to the loss of historic resources. Building the National View complex at this site will increase impervious surfaces resulting in polluted stormwater runoff, sedimentation, and flooding. There are currently no impervious surfaces in the northern half of the proposed site. Stormwater management to address flooding would require an even bigger footprint for the project. The plan entails clearing open space that will diminish tree canopy and increase forest fragmentation. Traffic will increase substantially resulting in air and noise pollution. Lights from the complex will disrupt the night sky. The height and size of the complex itself will create negative impacts to the historic viewshed both within the national park and the adjoining neighborhood.

A substantial impact that is not given due diligence in the applicant's proposal is how traffic will be addressed on Bald Eagle Road. This development project presumes widening of Oxon Hill Farm Driveway and using Bald Eagle Road for the up to 13,000 vehicles accessing the site daily. The National Park Service has not indicated that

this would be permitted. The sheer number of cars would easily create significant traffic congestion in the area, making this a public safety hazard as well should an emergency arise.

Another considerable impact not considered is how to address the fact that there is currently no plan for mass transit to be extended to this development. No agency presently has any plans to serve this site with mass transit. The adjoining roadways are not programmed for improvement for the next six years in the current Maryland Department of Transportation's transportation programs. The project applicant wishes to build up to 1700 housing units, 200,000 square feet of commercial space, four assisted living residences, a medical facility, and a police station with no access to mass transit. This most certainly will result in unwieldy amounts of traffic with its associated air and noise pollution.

This plan is incompatible with the historic and natural character of this area and the current single- family housing in the adjacent neighborhoods. It will increase traffic and pollution, destroy critical green space, and disrupt the viewshed of this historic landscape, including Oxon Cove Park. We urge you to deny the applicant's request to change the zoning of this area.

Thank you for considering our views.

(Exhibit 38)

(23) The IHHAAC (Indian Head Highway Area Action Council) voted to oppose the rezoning due to "significant issues with transportation, traffic, adequate public facilities, the environment and the historic sites." (Exhibit 83)

(24) Ms. Janet Gingold provided the following testimony on behalf of the Prince George's Sierra Club (the nation's oldest grassroots environmental organization):

The Prince George's Sierra Club urges you to deny the request to rezone the properties The Sierra Club recognizes the need for more affordable housing and more housing for seniors in our County. We support high-density and [mixed-use] transit-oriented development as specified in Plan 2035 in the regional transit districts; however, the proposed National View project is not truly transit-oriented. It is not within easy access of any existing or planned public transit routes. It would create development outside the existing edge of developed land, encroaching upon the Potomac shoreline special conservation district described in the 2017 Green Infrastructure Plan.

Experts from the County's Planning Board have found that this rezoning would be contrary to the goals of Prince George's Plan 2035[;] 2000 Heights and Vicinity Master Plan; the 2014 [Eastover/Forest Heights/Glassmanor] Sector Plan; and the 2014... Resource Conservation Plan. It is not in keeping with the purpose of the MXT zoning and it would promote a mixed use of development that is out of context with the surrounding neighborhood of Forest Heights and the wooded areas and adjacent national parkland...

Currently, the properties in question are wooded with oaks, beaches, tulip trees and others of varying size, including scattered specimen trees providing a backdrop for the historic

Oxon Cove Park and the aptly named community of Forest Heights. High-density, mixed use development here would markedly change the character of the area. It would replace a primarily natural view scape with a highly urban one, and impact the experience of families, school groups, and others who come to Oxon Cove Park to learn about local history, connect with their rural heritage, or to enjoy a brief escape from the urban environment....

As we look to a future with more excess heat days and more extreme precipitation, preservation of our green infrastructure takes on greater importance for decreasing heat... and absorbing flood waters. Even small areas of mature forests become more important not just for the sake of the wild things that live there, but because of the ecosystem services they provide for the human population. The proposed zoning change would allow for loss of trees and other vegetation, and the creation of more impervious surfaces. This is contrary to the policies outline in the 2017 Green Infrastructure Plan... [and] the 2017 Resources Conservation Plan....

Both Staff from the Department of Permitting and Inspections and the National Park Service had pointed to potential safety issues related to single-point for increased ingress and egress on Bald Eagle Road. This could interfere with access to emergency vehicles needed to care for elderly residents, as well as activities at the proposed police station, in addition to impacting the experience for visitors to the park....

(May 5, 2021 T. 110-114)

(25) Residents of the Town of Forest Heights decried the impact to their viewsheds if the request is approved; the increase in vehicular trips to the area from approximately 558 total daily to 13,429 as indicated in the Technical Staff Report; the loss of mature trees; impact on the historic resources; the possibility that uses proffered at this stage of zoning may not be the uses actually constructed; dense uses in contrast with Plan 2035's recommendation of residential low-land use; the quiet and tranquility currently enjoyed by residents; possible negative impact on wildlife; no guarantee that any senior housing constructed will be affordable; and the proximity of other shopping centers that could fulfill area residents' shopping needs. (Exhibit 40; March 24, 2021 T. 70-71, 128, 130, 144-145 and May 5, 2021 T. 108, 111, 124-126)

Agency and Municipal Comments

(26) David Iannucci, President and CEO of the Prince Georg's County Economic Development Corporation ("EDC"), provided a letter in support of the request on behalf of the EDC:

I write to express support for the rezoning request.... The site is a major gateway to Prince George's County and the State of Maryland. Given the site's close proximity to the National Harbor, the MGM Hotel and Casino, and two of the County's designated Centers, we believe Petra's proposal is well-suited for this location.

This particular site will become part of... several National-themed developments along that portion of the Potomac River with National Harbor just south of this site and National

Landing on the Virginia side of the river. National Landing also happens to be the location of the new Amazon headquarters and associated development, which will only boost the potential for National View's success....

Petra's proposal presents an ideal opportunity to add more density to an area of the County that has been targeted for growth under Prince George's Plan 2035. The high visibility of this location should attract quality retail options complimentary to those at the National Harbor and MGM as well as services that will be crucial to the Town of Forest Heights, and the residential component will undoubtedly strengthen the businesses in the area and enhance the continued success of the town in its pursuit of a walkable, sustainable, and forward-thinking community. The site is also located in an Opportunity Zone, which will be an important advantage to attracting capital investment to the project....

(Exhibit 37)

(27) The Town of Forest Heights is within a Priority Funding Area and was recently named a Sustainable Community, pursuant to the Maryland Department of Housing and Community Development's Sustainable Communities Program. This "designation is a threshold requirement for application to several Maryland Department of Housing and Community Development revitalization programs" and "provides access to a suite of resources that can support housing and community development, local transportation enhancements, tax credit programs and programs to support a healthier environment...." (Exhibit 53) In its application to renew its designation as a Sustainable Community, the Town noted its strengths as:

- the existence of the Forest Heights Community Development Corporation
- its close proximity to National Harbor, the outlet mall and MGM
- its annexation of adjacent land

The Town noted its weaknesses as:

- Very few retail or commercial properties
- A commercial node characterized by poorly maintained commercial facades
- Limited paid staffing to focus on economic development

The Town has also received designation as an Opportunity Zone.

(28) Both the Mayor and the governing body of the Town of Forest Heights submitted written support of the request. As early as 2020 the Mayor submitted a letter to the Chairs of the Planning Board and County Council that provided, in part, as follows:

The development of this important site checks many boxes for the Town. As you may know, the Town worked closely with a... (MNCPPC) as they drafted the 2014 Eastover-Forest Height-Glassmanor Sector Plan and Sectional Map Amendment which was published. At that time, this site was under the private ownership of two families, and therefore, the land was not taken into consideration as we worked on the Sector Plan.

At this time, the Town recognizes the need to update the Sector Plan. An update would allow the Town to effectively take advantage of an opportunity that has been presented by the Harbor View developers which will greatly enhance the lives of our residents. Harbor View will address many needs of the Town, and bring much-needed services, amenities, retail and commercial options to our Town residents. One noteworthy feature of their plans is to build a 3,0000 square foot police substation. Our police force needs this, as they are now operating out of limited office space, and at a time when the Town is currently growing its police department and moving towards 24-hour patrol coverage....

We strongly support the developer's request to rezone this site to accommodate the conceptual plans that have been presented to the Town. We believe the developer shares the Town's vision regarding creating true sustainable communities and their development plans that they have presented to the Town. We believe the developer shares the Town's vision regarding creating true sustainable communities and their development plans reflect responsible initiatives to implement green techniques, such as vegetative green roofs, community gardens, and use of pervious materials where appropriate. They also understand the importance of health and wellness and are implementing and connecting walking trails and other amenities to advance the health of residents who will live, work and lay there. Neighboring residents will also be able to walk safely from this development site along a connecting trail that leads across the Beltway to National Harbor and beyond.

As much as we support Smart Growth, our Town's relative lack of an economic base has been a Smart Growth barrier. Forest Heights has accomplished quite a bit in terms of Smart Growth using grant monies and partnerships with other public and private sector organizations. However, virtually our entire tax base and related revenue is dependent upon the collection of residential property tax. Granting this rezoning will allow the Town to significantly broaden its tax base, and the development of these properties is crucial to this effort. For our town, Harbor View's proposed mix of residential, retail and commercial development represents a once-in-a generation economic development opportunity. The proposed development will result in a necessary increase in the Town's housing options, attracting the kind of commercial and retail business mix that the Town seeks for its residents.

(Exhibit 23)

(29) The Town's joint resolution in support provided, in pertinent part, as follows:

WHEREAS, Harbor View LLC... has purchased the Butler and the Habib Foundation properties south of Cree Drive along with other properties and wished to develop the land in cooperation of the Town to obtain the necessary **land** use approvals from M-NCPPC and the County;

WHEREAS the development area is approximately ten (10) acres of land located inside the Town and ten (10) acres located outside of the Town including the Butler parcels and an SHA parcel near Beltway and Bald Eagle Dr.; and

WHEREAS, the Mayor and Council find that the Town of Forest Heights seeks to correct the imbalance between residential and commercial development, and conservative estimates indicate that the Town could realize approximately \$3M

annually in addition tax revenue from National View, and the development will also feature a police substation to accommodate the growing needs of the Town's police force and transition to 24-hour operations; and...

WHEREAS, the Town's Sustainable Plan mirrors many of the development and redevelopment concepts and infrastructure improvements contained in the Sector Plan, which the Town recognizes is in need of updates to allow the Town to more effectively take advantage of an opportunity that has been presented which will greatly enhance the lives of Town residents, bring much-needed services, amenities, retail and commercial options to our Town residents; and

WHEREAS, the Mayor and Council find that the developer shares the Town's vision regarding creating true sustainable communities and the development plans reflect responsible initiatives to implement green techniques, such as vegetative green roofs, community gardens, and use of pervious materials where appropriate, and they also understand the importance of health and wellness and are implementing and connecting walking trails and other amenities to advance the health of residents who will live, work and play there, and residents will be able to walk safely from this development site along a connecting trail that leads across the Beltway to the National Harbor and beyond; and

WHEREAS, the Mayor and Council further find that support for this project will be beneficial for the Town for the following reasons: (i) our Town[s] relative lack of an economic base has been a Smart Growth barrier, (ii) Granting this rezoning will allow the Town to broaden its tax base, and the development of these properties is crucial to this effort, (iii) the proposed development will result in a necessary increase in the Town's housing options, attracting the kind of commercial and retail business that the Town seeks for its residents, sit down restaurants and upscale brand name retailers within the Town limits, want our seniors to be able to "age in place" so it will not be necessary for them to leave the community as the aging process progresses....

NOW THEREFORE BE IT RESOLVED, [that] the Mayor and the Town Council of the Town of Forest Heights, supports the rezoning of the subject properties from R-55 and R-R to M-X-T for the development of residential, retail, commercial and medical uses proposed by the Developer....

(Exhibit 109)

(30) The remainder of the Resolution addresses a pre-annexation agreement that would: incorporate exploring an alternative emergency access to the site if the rezoning were approved; provide for way finding markers from the Town to the Butler property; address compatibility of development along the northern portion of the site with the existing surrounding neighborhood along Cree Drive; increases tree canopy coverage with the existing town by 3%; includes review of a noise study prior to subdivision approval; and preserves at least 10% of the specimen trees found throughout the subject property, as shown on an updated NRI.

(31) The Historic Preservation Commission and staff reviewed the request for its impact on Historic Site 76A-014 (the Butler House) and Historic Site 76A-013 (Mount Welby). Staff presented the following information to the Commission:

The subject application proposes the rezoning of the subject properties from R-55 and R-R to M-X-T for the development of residential, retail, commercial, and medical uses. The applicant is proposing 1,500-1,700 multi-family units, four assisted living buildings, 200,000 square feet of retail/commercial/office space, a 50,000 square-foot medical building, and a 3,000 square-foot police substation. The subject property contains the Butler House (76A014/National Register). The Butler House property is adjacent to Mount Welby (76A-013/National Register), which is owned by the National Park Service and located within the Oxon Cove Farm. The Oxon Cove Farm property was listed in the National Register of Historic Places in September 2003. The Butler House is a three-bay, 2 ½-story wood-frame-and-log dwelling with a steeply pitched side-gable roof and a large shed-roof addition. The Butler House is significant for its association with the themes "African-American experience, 1660-1865" and "The Freedmen's Bureau, 1865- 1872" as set forth in the Multiple Property Documentation for African-American Historic Resources in Prince George's County, Maryland. Henry Alexander Butler, a free African American from Charles County, moved with his family to the property around 1853 and completed construction of the house. The property had been continuously associated with the Butler family since that time and until its recent sale to the applicant for the subject application. The Butler House, now in ruinous condition, and its associated property are nevertheless rare surviving examples of a documented pre-Civil War landholding/farmstead inhabited by a free African American family. According to Butler family oral history, the Butler House was begun in 1851 as a post office. Henry Alexander Butler, a free African American man from Charles County, moved with his family to the property in 1853 and completed construction of the house. The Butler family possesses receipts for taxes paid on the property by Henry Butler in 1859 and 1860. The Butlers turned their property into a small farm that included a chicken house, meat house, barns, and other agricultural buildings. During the Civil War, Union officers are said to have stopped at the house when traveling through the area. Family photographs indicate that the Butlers lived a comfortable, middle class life. They also enjoyed high status in the African American community. Henry Butler became a Reconstruction-era community leader, serving as trustee of the Freedmen's Bureau school near Oxon Hill. The Butlers associated with prominent African American Washingtonians, including the first African American priest and a Mr. Lewis, master barber at the U.S. Capitol. The property remained in the Butler family until it was sold to Harbor View Development, LLC in 2019. The property also holds potential to yield information about African American material culture. The Butler House meets Criterion A for listing in the National Register of Historic Places. The northern portion of the subject property was owned by several other African American families, including the Hattons and the Proctors. Henry Hatton acquired 21 acres of Mt. Welby from Joseph H. Bowling on January 9, 1868. Hatton had a blacksmith shop in Oxon Hill. Two of Hatton's sons, Henry and George W. Hatton, joined the U.S. Colored Troops during the Civil War. Several of Henry Butler's children and grandchildren continued to live in the Butler House through the late twentieth century. The Hatton property appears to have been abandoned in the 1940s to 1950s when the Forest Heights housing development was platted. The Mount Welby Historic Site/Oxon Cove Farm Historic District (76A-013) is adjacent to the subject property.

Oxon Cove Farm is an agricultural complex, encompassing 14 buildings and two structures. The property is currently part of a living farm museum operated by the National Park Service. The resources encompassed in the historic district are associated with the

property's sequential development as a plantation, an institutional agricultural complex, and a farm museum, during the nineteenth and twentieth centuries. Turn-of-the-century farm implements, and machines are scattered throughout the park grounds. The eight contributing elements constitute a recognizable agricultural complex that is significant for its association with mental health care. Buildings included within the district are associated with the 1800-1850 and 1891-1943 time periods. The Oxon Cove Farm historic district was among the first agricultural complexes to be used as a therapeutic treatment center for the mentally ill. Mount Welby was determined eligible for listing in the National Register under Criterion A for its association with St. Elizabeth's Hospital in Washington, D.C. Mount Welby was used by the hospital as a farm where mental patients could be helped in their treatment by honest labor in fresh air. The property was also determined eligible under Criterion C for architecture. Mount Welby, which was constructed in 1811 and substantially altered in 1891, is an unusual melding of a Federal period house with the urban row house aesthetic of the Victorian period. In addition, the farmstead encompasses a fairly complete grouping of agricultural buildings dating from the early to late 19th century and is a rare reminder of the area's agricultural past.

A Phase I archeology survey was conducted on the subject property in October and November 2019. The fieldwork was initiated with a pedestrian survey in which several bottle and container glass dumps were identified. Several trash dumps were noted along the ravine to the east of the Butler houses. No historic artifact concentrations or scatters were noted on the surface. Subsurface artifacts recovered date from the prehistoric to modern periods. The prehistoric artifacts were not found in any concentration and were scattered over an area 600 feet in length. Most of the historic artifacts recovered date to the twentieth century occupation of the property. Cultural features identified included a combination well house and adjacent well east of the Butler House. An area to the southwest of the Butler House and to the east of the entry road was indicated to be a possible cemetery.

Staff recommended that, based on the authority granted to it through Subtitle 29-106 (6), the HPC recommend to the Planning Board that the proposed rezoning of the subject property from R-55 and R-R to M-X-T is incompatible with the rural historic character of the adjacent historic site, Mount Welby (76A-013), and further, that the proposed rezoning would fully destroy any remnants of the Butler, Hatton, and Proctor families' historic habitation of the subject property. In addition, specific efforts shall be made to confirm the potential presence of any burials on the subject property. If identified, proper measures shall be implemented to ensure the protection of any burials until such time as their lawful disposition is resolved....

(Exhibit 56)

(32) Commissioner Pruden made a motion to recommend that the Planning Board find the proposed rezoning to be incompatible with the rural historic character of Mount Welby and that it would fully destroy and remnants of the Butler House. That motion failed and the Historic Preservation Commission did not make any recommendation on the request.

(33) The Department of Permitting, Inspections and Enforcement (“DPIE”) noted no objection to the proposed rezoning with the following caveat:

The access road into this site appears to be flood prone. Unless the Applicant can propose an alternate means of access or in some way demonstrate non-flood prone access, DPIE will not be able to support this development.

(Exhibit 1, Backup pp. 84-85)

(34) The United States Department of the Interior National Park Service noted its objection to the Application alleging a negative impact to the park entrance shared driveway access to Bald Eagle Road; the impact to the park viewshed; and the impact to the historic Butler property. (Exhibit 1, Backup pp. 86-89)

(35) Michael Commisso, the Acting Superintendent of Piscataway Park (which includes Oxon Hill Farm and Oxon Cove Park) was authorized by the National Park Service to speak on its behalf. (Exhibit 97) Mr. Commisso provided the following opposition to the request:

Oxon Hill Farm and Oxon Cove Park were established for scenic and recreation values, as part of the corridor of trails, parkways, forests, and wetlands in the comprehensive system of parks in and around our nation’s capital.... Within the intensively developed urban area of the Washington D.C. beltway, the park provides hands-on opportunities for children to milk a cow and collect fresh eggs from chickens, and to explore the long history of farming at the site....

[W]e are concerned with the proposed rezoning because of its potential negative impacts to park land and to people’s experiences at the park. If this change is approved, we believe that the resulting project will have significant deleterious effects on traffic and safety at the park’s entrance, park viewsheds, and historic resources....

The property proposed for rezoning shares driveway access to Bald Eagle Road with the park. All development on this property will have only a single, constrained access point (width of historic roadbed) as it is bounded on two of three sides by park land and on the third by privately owned and occupied homes. There is no opportunity for another access point without additional property acquisition. We believe allowing such substantial development that relies on this constrained access point will damage the park’s entrance and will cause safety issues for both park visitors and the general public. We are concerned with such a dramatic increase in traffic on the shared driveway access and the proposal to widen Bald Eagle Road....

The existing zoning for the property allows moderate residential development, which is in keeping with the adjacent suburban Forest Heights neighborhood. The introduction of any higher density use will have negative impacts on the historic setting of the park and the rural experience park visitors now enjoy. Specifically, the proposed changes in zoning will greatly impact the park’s viewshed with the introduction of high-rise structures that will be seen from all areas of the farm’s historic core....

A significant portion of the area proposed for rezoning is a parcel known as the Butler property, which is in the National Register of Historic Places. This property, adjacent to the park, includes the Butler house (ca. 1853), the only surviving antebellum free Black homestead in Prince George's County. The proposed rezoning and development plans for National View will remove this important piece of American history from the landscape....

(Exhibit 91)

(36) The State Highway Administration ("SHA") commented on the traffic study conducted by Mr. Lenhart. While it noted that the report concludes that the study intersections will continue to operate at acceptable levels of service under future conditions, the SHA did request additional comments on several items. (Exhibits 75 and 81, pp. 27-30) Mr. Lenhart submitted a point-by-point response on March 16, 2021 (Exhibit 72) but the record does not appear to include SHA'S agreement with the response.

(37) The Technical Staff recommends the request be denied, opining that the request does not meet any of the applicable requirements of Section 27-213 of the Zoning Ordinance. It first notes that the request would substantially impair the General Plan, Master Plans and Functional Plans. It cited provisions of the various plans it considered relevant to review of the instant request. The following provisions were culled from the 2014 General Plan:

Policy LU 1: Direct a majority of projected new residential and employment growth to the Regional Districts, in accordance with the Growth Policy Map (Map 11, pages 107-108) and the Growth Management Goals (Table 17, page 110) set forth in Table 17 (Land Use, page 110)

Strategy LU 1.1: To support areas best suited in the near term to become economic engines and models for future development, encourage projected new residential and employment growth to concentrate in the Regional Transit districts that are designated as Downtowns (see Strategic Investment Program under the Implementation section [pages 252-254])(Land Use, page 305).

Policy LU 7: Limit future mixed-uses outside of the Regional Transit Districts and Local Centers (Land Use, page 114).

Policy LU 9: Limit the expansion of new commercial zoning outside of the Regional Transit Districts and Local Centers to encourage reinvestment and growth in designated centers and in existing commercial areas.

Policy HN 1: Concentrate medium- to high-density housing development in Regional Transit Districts and Local Centers with convenient access to jobs, schools, childcare, shopping, recreation, and other services to meet projected demand and changing consumer preferences (Housing and Neighborhoods, page 187)

Strategy HD 9.9: Implement urban design solutions to ensure appropriate transitions between higher intensity and density development and surrounding lower-density

residential neighborhoods. Urban techniques include decreasing (stepping down) building heights, reducing development densities, and otherwise modifying architectural massing and form (Community Heritage, Culture, and Design, page 215).

(Exhibit 1, pp. 5-6)

(38) The Technical Staff noted that the 2000 Heights and Vicinity Master Plan, which governs the southern portion of the property, made no specific recommendation as to future land use of the site, but did recommend that infill development be compatible with the low-density surrounding neighborhood. The 2014 Eastover /Forest Heights/Glassmanor Sector Plan governs the northern portion of the property. It also makes no specific future land use recommendation. It does place the property in Focus Area 5. Staff states that since no recommendations are made to change the current land use in this Focus Area “the area’s existing land use, described as dense single-family housing, should remain the same.” (Exhibit 1, p. 8)

(39) Staff next cites a plethora of environmental recommendations in the 2014 Eastover/Forest Heights/Glassmanor Sector Plan and the 2000 Master Plan for the Heights and Vicinity, and argues that any development of the site or development inconsistent with its present zoning would result in less trees and more impervious surfaces, stormwater retention measures, noise studies due to proximity and the Beltway and concludes that “[b]ased on the recommendations of both area master plans, the proposed rezoning would not be consistent with environmental goals if the rezoning request is granted.” (Exhibit 1, pp. 9-14)

(40) The Urban Design Section reviewed information from the Applicant which suggested that they would like to provide a mixed-use development of up to 1,500-1,700 multifamily dwelling unit;, 200,00 square feet of retail, commercial and office space; a 204-room hotel; a 50,000-square-foot medical building; and a 3,000 square-foot police substation. It recommended denial of the request reasoning as follows:

The subject site is encumbered with significant regulated environmental features and is in a very narrow linear shape that results in limited buildable envelope....

The site is surrounded on the east side with lower density (6.7 dwelling units per acre) single-family detached established neighborhoods; on the west [side] by public park. The proposed gross residential density only in this Zoning Map Amendment Application is estimated at 85 dwelling units per acre, which is almost 13 times of the existing residential density. If up to 200,000 square feet of retail and up to 50,000 square feet of medical uses are taken into the density calculation, minus the environmental features from the developable envelope, the net density of this development will be much higher and that is totally out of... [character] with the surrounding development patterns north of the Capital Beltway.

The proposed development includes multiple mid- to high-rise vertical mixed-use buildings. Given the constrained shape of the site, it is not possible to provide any transition in terms of building typology and density between the proposed development and the existing single family detached houses. The proposed development will be

commanding, dominating, and overshadowing the existing neighborhood to the east that will create a stark visual contrast between the low, tiny single-family detached homes and the tall, massive mid- to high-rise buildings....

Based on the foregoing analysis, the Urban Design Section does not support [the Application] because the proposed zoning is not consistent with the recommendations from the General Plan or the Master Plan and will therefore substantially impair both plans. If the M-X-T Zone is adopted, then at the time of the Conceptual Site Plan and Detailed Site Plan reviews, special attention should be given to ensure project's compatibility with the surrounding neighborhoods, as well as any restrictions associated with the R-C-O Zone.³

(Exhibit I, Backup pp. 82 and 83)

(41) The Transportation Section reviewed the request and sent referrals to DPIE and SHA. It first noted that the "estimated site trip generation indicates that the proposed rezoning could have an off-site impact of 600 to 900 additional trips, depending on the peak hour being considered" and the "daily trip impact could be as high as 12,900 daily trips." (Exhibit 1, p. 25) After reviewing Applicant's two concepts to ensure that the two intersections nearest the site can operate at an adequate level, the staff provided the following comment:

While the staff are inclined to accept these concepts as evidence that the two intersections nearest the site can be made to be adequate, the concept of creating access to this site needs greater thought. Both access concepts involve usage of a National Park Service roadway, and this applicant has not shown that the use of that roadway is feasible or permissible. One access concept involves all traffic entering and leaving the site to make two 90-degree turns; the other concept involves making a park road into a through roadway. Neither of these ideas is conducive to creating a mixed-use community. Also, given that there is potential for more than 13,000 daily vehicles accessing the site, more serious consideration must be given to signalization near the site access. There is not a viable vehicular access point to the site to handle the traffic of the proposed intense development at this time without generating significant negative impact on the abutting established traditional single-family neighborhoods.

Given the proposed uses and the associated traffic projection outlined in the traffic study, it is determined that the transportation facilities in the area would be adequate to carry anticipated traffic for the proposed development, as required by Section 27-213 (a)(1)....

(Exhibit 1, pp. 28-29)

(42) The Technical Staff closed its report with the following recommendation of disapproval:

³ Elsewhere in the record it is noted that a portion of the property lies within the I-D-O Zone. (Exhibits 1, p. 16 and 69) I believe the Urban Design Section mistakenly referenced the R-C-O Zone.

The application does not meet the requirements of Section 27-213 (a)(1)(B) of the Zoning Ordinance because the 2000 *The Heights and Vicinity Approved Master Plan and Sectional Map Amendment* and the 2014 *The Approved Eastover/Forest Heights/Glassmanor Sector Plan and Sectional Map Amendment* does not recommend mixed land uses for the subject property similar to those recommended in the... M-X-T zone.

This application does not meet the requirements of Section 27-213 (a)(2) of the Zoning Ordinance. This application will substantially impair the integrity of Plan 2035 primarily because the proposed high-density mixed-use development is not supported by the recommended land use for Established Communities Growth Policy Area, as designated by Plan 2035. This application will also substantially impair the integrity [of] the 2000 *The Heights and Vicinity Approved Master Plan and Sectional Map Amendment*, primarily because the proposed high-density mixed-use development does not conform to the recommended infill development that is compatible with the low-density character of the surrounding neighborhoods (The Heights, page 13). As previously stated, the intent of the master plan and the general plan is to direct mixed-use, high-density developments, such as that permitted by and encouraged in the M-X-T Zone, into designated regional transit districts and local centers, rather than scattered throughout the County. Since the subject properties are not located within any designated regional transit district or local center, the master plan envisioned this area for low- to medium-density residential neighbor development, rather than high-density mixed-used development. In addition, pursuant to Section 27-213(a)(2), this application is not in harmony with the purposes of the M-X-T Zone.

The intense character of M-X-T Zone development would be vastly different, inappropriate, and an abrupt transition in density and uses from what is envisioned in the 2014 Plan Prince George's 2035 Approved General Plan, the 2000 *the Heights and Vicinity Approved Master Plan and Sectional Map Amendment*, and the 2014 *The Approved Eastover/Forest Heights/Glassmanor Sector Plan and Sectional Map Amendment*. Therefore, staff finds that reclassifying the subject properties to the M-X-T Zone will substantially impair the goals, policies, and purposes of the general plan and the master plan. Consequently, staff recommends **DISAPPROVAL** of Zoning Map Amendment Application A-10055, National View, for rezoning from the R-R and R-55 Zones to the M-X-T Zone.

(Exhibit 1, p. 30)

APPLICABLE LAW

(1) Applicant's request for a rezoning to the M-X-T Zone must satisfy the provisions of Section 27-213 of the Zoning Ordinance. This Section provides, in pertinent part, as follows:

(a) **Criteria for approval of the M-X-T Zone.**

(1) The District Council shall only place land in the M-X-T Zone if at least one (1) of the following two (2) criteria is met:

(A) Criterion 1. The entire tract is located within the vicinity of either:

(i) A major intersection or major interchange (being an intersection or interchange in which at least two (2) of the streets forming the intersection or interchange are

classified in the Master Plan as an arterial or higher classified street reasonably expected to be in place within the foreseeable future); or

(ii) A major transit stop or station (reasonably expected to be in place within the foreseeable future).

(B) Criterion 2. The applicable Master Plan recommends mixed land uses similar to those permitted in the M-X-T Zone.

(2) Prior to approval, the Council shall find that the proposed location will not substantially impair the integrity of an approved General Plan, Area Master Plan, or Functional Master Plan and is in keeping with the purposes of the M-X-T Zone. In approving the M-X-T Zone, the District Council may include guidelines to the Planning Board for its review of the Conceptual Site Plan.

(3) Adequate transportation facilities.

(A) Prior to approval, the Council shall find that transportation facilities that are existing, are under construction, or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or will be provided by the Applicants, will be adequate to carry anticipated traffic for the proposed development.

(B) The finding by the Council of adequate transportation facilities at this time shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.

* * * * *

(c) Conditional approval.

(1) When it approves a Zoning Map Amendment, the District Council may impose reasonable requirements and safeguards (in the form of conditions) which it finds are necessary to either:

(A) Protect surrounding properties from adverse effects which might accrue from the Zoning Map Amendment; or

(B) Further enhance the coordinated, harmonious, and systematic development of the Regional District.

(2) In no case shall the conditions waive or lessen the requirements of, or prohibit uses allowed in, the approved zone.

(3) All building plans shall list the conditions and shall show how the proposed development complies with them.

(4) Conditions imposed by the District Council shall become a permanent part of the Zoning Map Amendment, and shall be binding for as long as the Mixed Use Zone remains in effect on the property (unless amended by the Council).

(5) If conditions are imposed, the Applicants shall have ninety (90) days from the date of approval to accept or reject the rezoning as conditionally approved. He shall advise (in writing) the Council accordingly. If the Applicants accepts the conditions, the Council shall enter an order acknowledging the acceptance and approving the Map Amendment, at which time the Council's action shall be final. Failure to advise the Council shall be considered a rejection of the conditions. Rejection shall void the Map Amendment and revert the property to its prior zoning classification. The Council shall enter an order acknowledging the rejection, voiding its previous decision, and reverting the property to its prior zoning classification, at which time the Council's action shall be final.

(6) All Zoning Map Amendments which are approved subject to conditions shall be shown on the Zoning Map with the letter "C" after the application number.

* * * * *

(2) The Application must also further the purposes of the M-X-T Zone, found in Section 27-542(a) of the Zoning Ordinance. This Section provides as follows:

(a) The purposes of the M-X-T Zone are:

(1) To promote the orderly development and redevelopment of land in the vicinity of major interchanges, major intersections, and major transit stops, so that these areas will enhance the economic status of the County and provide an expanding source of desirable employment and living opportunities for its citizens;

(2) To conserve the value of land and buildings by maximizing the public and private development potential inherent in the location of the zone, which might otherwise become scattered throughout and outside the County, to its detriment;

(3) To promote the effective and optimum use of transit and other major transportation systems;

(4) To facilitate and encourage a twenty-four (24) hour environment to ensure continuing functioning of the project after workday hours through a maximum of activity, and the interaction between the uses and those who live, work in, or visit the area;

(5) To encourage diverse land uses which blend together harmoniously;

(6) To create dynamic, functional relationships among individual uses within a distinctive visual character and identity;

(7) To promote optimum land planning with greater efficiency through the use of economies of scale and savings in energy beyond the scope of single-purpose projects;

(8) To permit a flexible response to the market; and

(9) To allow freedom of architectural design in order to provide an opportunity and incentive to the developer to achieve excellence in physical, social, and economic planning.

(3) If the District Council approves the request, further site plan review and approval will be required, pursuant to Section 27-546 of the Zoning Ordinance. That Section provides as follows:

Sec. 27-546. Site plans.

(a) A Conceptual Site Plan and a Detailed Site Plan shall be approved for all uses and improvements, in accordance with Part 3, Division 9, of this Subtitle.

(b) In addition to the information required by Part 3, Division 9, for Conceptual Site Plans, the following information shall be included on Plans in the M-X-T Zone:

(1) A general description of the pedestrian system proposed;

(2) The proposed floor area ratio;

(3) The type and location of uses proposed, and the range of square footage anticipated to be devoted to each;

(4) A general description of any incentives to be used under the optional method of development;

(5) Areas proposed for landscaping and screening;

(6) The proposed sequence of development; and

(7) The physical and functional relationship of the project uses and components.

- (8) Property placed in the M-X-T Zone by a Sectional Map Amendment shall provide supporting evidence which shows whether the proposed development will exceed the capacity of transportation facilities that are existing, are under construction, for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program or within the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in a specific public facilities financing and implementation program.
- (c) In addition to the information required by Part 3, Division 9, for Detailed Site Plans, the following information shall be included on Plans in the M-X-T Zone:
 - (1) The proposed drainage system;
 - (2) All improvements and uses proposed on the property;
 - (3) The proposed floor area ratio of the project, and detailed description of any bonus incentives to be used; and
 - (4) Supporting evidence which shows that the proposed development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program or within the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in a specific public facilities financing and implementation program, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plan approval, whichever occurred last.
 - (d) In addition to the findings required for the Planning Board to approve either the Conceptual or Detailed Site Plan (Part 3, Division 9), the Planning Board shall also find that:
 - (1) The proposed development is in conformance with the purposes and other provisions of this Division;
 - (2) For property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, the proposed development is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change or include a major employment use or center which is consistent with the economic development strategies of the Sector Plan or General Plan;
 - (3) The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;
 - (4) The proposed development is compatible with existing and proposed development in the vicinity;
 - (5) The mix of uses, arrangement and design of buildings and other improvements, and provision of public amenities reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;
 - (6) If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;
 - (7) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity within the development;

- (8) On the Detailed Site Plan, in areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial); and
- (9) On a Conceptual Site Plan for property placed in the M-X-T Zone by a Sectional Map Amendment, transportation facilities that are existing; that are under construction; or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, or the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in an approved public facilities financing and implementation program, will be adequate to carry anticipated traffic for the proposed development. The finding by the Council of adequate transportation facilities at the time of Conceptual Site Plan approval shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.
- (10) On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club).
- (11) On a property or parcel zoned E-I-A or M-X-T and containing a minimum of two hundred fifty (250) acres, a Mixed-Use Planned Community including a combination of residential, employment, commercial and institutional uses may be approved in accordance with the provisions set forth in this Section and Section 27-548.

Editor's note(s)—By Order of Court dated February 14, 2020, The Circuit Court for Prince George's County, in CAL 19-23357, invalidated the Council's enactment of CB-018-2019 and CB-019-2019. As such, the provisions of this Section are null and void.

The Court case referenced in the Editor's Note invalidated provisions pertaining to a particular use not at issue in this case. However, given the language used in the Editor's note, the District Council should specifically require Conceptual and Detailed Site Plan approval that satisfies the provisions in Part 3, Division 9 of the Zoning Ordinance, and any other requirement deemed necessary, should it choose to grant the rezoning.

CONCLUSIONS OF LAW

- (1) The Application must be found to comply with the requirements of Section 27-213 and the purposes of the M-X-T Zone found in Section 27-542.
- (2) The subject property must be located within the vicinity of either a major intersection or interchange in which at least two of the streets forming the intersection or interchange are classified in the Master Plan as an arterial or higher. (Section 27-213 (a)(1)(A)(i)) All would agree that the property is relatively close to the Indian Head Highway (MD 210) and the Capital Beltway (I-495) - two streets classified as arterial or

higher. However, the Technical Staff believes that the entire property should be within a 1/2 mile of the interchange to support walkability and that the 1/2 mile is measured from the point that the two streets cross (which would clearly not support walkability). If that measurement is applied all of the property is approximately 3,250 feet from the interchange and one-half mile is 2,640 feet. Applicant believes the “vicinity” test is satisfied if the two streets are in the neighborhood of the subject property because the dictionary defines vicinity as neighborhood. Indeed, the Merriam Webster Dictionary (accessed online at Merriam-Webster.com) defines “vicinity” as “a surrounding area or district; neighborhood the quality or state of being near.” This Examiner believes the definition usually applied is most akin to the last portion – the state of being near- as the complete square footage of a neighborhood used for land use purposes is seldom included in the record (nor was it in this case). Using that definition, one can still find the interchange to be in the vicinity of the entire property – whether we measure from the point where the two arterial or higher roadways cross (which does not seem feasible if a “walkability” standard is proposed) or we measure from the site’s proximity to the entire interchange (which includes Bald Eagle Drive per AASHTO and the County’s GIS system) the entire property is near the interchange.

(3) Since I have determined that the vicinity test is met, the applicable Master Plans are not required to have recommended mixed land uses for the site similar to those permitted in the M-X-T Zone.(Section 27-213 (a)(1)(B))

(4) The Technical Staff and Applicants expert transportation planning witness both opined that transportation facilities are adequate to carry anticipated traffic for the proposed development. (Section 27-213(a)(3)) Moreover, transportation adequacy will be reviewed again at the time of subdivision approval.

(5) The Zoning Ordinance does not expressly define the term “substantially impair”; accordingly, we look to the generally recognized usage. See, Section 27-108.01(a)(7). “Substantial” is generally defined as “considerable; ample; large”. (Webster’s New World Dictionary, 2nd College Edition) “Impaired” generally means weakened or damaged. I can/not find that approval of mixed-use development on the subject property will substantially impair either the General Plan, the Sector Plan or the Master Plan recommendations and policies, for the following reasons. The General Plan is not intended to identify land uses and zoning for specific properties. I agree that some policies within the General Plan would seemingly preclude the instant Application (such as the policies directing a majority of projected new residential and employment growth to Regional Transit Districts, limiting future mixed-use land uses outside of the Regional Transit Districts and Local Centers, and concentrating medium- to high-density development in Regional Transit Districts and Local Centers) but I cannot conclude that these policies are an absolute bar since this use of the property was not projected approximately 9 years ago when the 2014 General Plan was under consideration, and the District Council’s use of qualifying language such as “limiting” and “concentrating” as well as its failure to add further limiting language to Section 27-213 do not support such a conclusion. Review of the policies within the Master Plan and Sector Plan similarly would not lead to the conclusion that the instant request is a substantial impairment

thereof. The Heights Master Plan, applicable to the Butler property to the south, did not make a specific future land use recommendation but did urge that infill development be compatible with the low-density character of the surrounding neighborhood. Twenty-one years have passed since its adoption and no development in the interim. This request would not substantially impair the intent of the Master Plan so long as the site plans for any development address compatibility with the neighborhood. The 2014 Sector Plan, applicable to the Forest Heights property to the north, also does not make a specific future land use recommendation, but Staff finds dispositive the facts that in the focus area that included the northern part of the subject property there was no recommendation made to change the land use, unlike in other focus areas and the plan notes that there should be sidewalks on each side of the street and a study to address open stormwater culverts before sidewalks are provided. The latter recommendations can, again, be addressed at a later stage when site plans are approved. The Mayor of Forest Heights provided a reasonable explanation as to why the Focus Area also made no mention of a different land use for the property -the site was under the private ownership of two families, so the land was not taken into consideration. The Town has requested that a new plan be initiated now that the land is combined and under one ownership. Finally, other policies/recommendations within these Plans and the functional master plans either support the request, or raise design issues that can be addressed at the Conceptual and/or Detailed Site Plan stages. When all of these facts are considered, as well as those discussed in the Technical Staff Report and Mr. Ferguson's land planning analysis, I cannot find that the request would substantially impair the intent of the General, Master, Sector and Functional Plans. (Section 27-213 (a)(2))

(6) The request is in keeping with the purposes of the M-X-T Zone for the reasons noted above and since: it lies within the vicinity of a major interchange and a Regional Transit District and Local Neighborhood Center as noted *supra* and can be developed in a manner provide additional employment and living opportunities; Applicant intends to provide a mix of residential, retail and institutional (police substation) uses in a manner that capitalizes on its location next to the arterial or higher rights-of-way and partially within the designated sustainable community and opportunity zone (the Town of Forest Heights); the mix of uses will encourage a robust (if not quite 24-hour) environment; site plan review will ensure that the divers uses will blend harmoniously, creating functional relationships among each within a distinctive visual character and can ensure appropriate horizontal and vertical mix of uses that will promote optimum land planning, permit a flexible response to the market and allow freedom of architectural design and an incentive to the developer to achieve excellence in physical, social and economic planning. (Sections 27-213(a)(2) and 27-542(a))

(7) Finally, the Zoning Rewrite will probably not change the zoning of the subject property since the R-R Zone will be carried over, the R-55 Zone only changed slightly, and the M-X-T Zone deleted - so the District Council may not consider the "fit" of this M-X-T Zone during its upcoming Countywide Map Amendment review.

(8) Those in opposition to the request raised valid concerns. No amount of site plan review and adherence to all applicable laws in the development of "National View" will

prevent some impact to their viewshed, and some increase to traffic, noise, and interference with their way of life. If the District Council decides to approve the request, however, it will do so in a manner that will mandate adherence to all of the County, State or Federal laws applicable to this development to ensure as minimal adverse impacts as possible.

RECOMMENDATION

I recommend APPROVAL of A-10055 subject to the following conditions:

- (1) Prior to Conceptual Site Plan review and the issuance of any permit Applicant shall submit written evidence from the SHA indicating its approval of the proposed access to the property via the state-owned right-of-way and with Mr. Lenhart's March 16, 2021 response to SHA's concerns with the Traffic Study (Exhibit 72).
- (2) The request will be subject to Conceptual and Detailed Site Plan approval in accordance with the strictures found in Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement). Additionally, special attention should be given to the development's compatibility with the surrounding area and any restrictions associated with the I-D-O Zone, as well as some appropriate recognition of the historic Butler House property.
- (3) The Conceptual Site Plan shall include the following:
 - (a) A general description of the pedestrian system proposed;
 - (b) The proposed floor area ratio;
 - (c) The type and location of uses proposed, and the range of square footage anticipated to be devoted to each;
 - (d) A general description of any incentives to be used under the optional method of development;
 - (e) Areas proposed for landscaping and screening;
 - (f) The proposed sequence of development; and
 - (g) The physical and functional relationship of the project uses and components.
- (4) The following information shall be included on the Detailed Site Plans:
 - (a) The proposed drainage system;
 - (b) All improvements and uses proposed on the property;
 - (c) The proposed floor area ratio of the project, and detailed description of any bonus incentives to be used;

- (d) Supporting evidence which shows that the proposed development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program or within the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in a specific public facilities financing and implementation program, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plan approval, whichever occurred last.
- (5) In addition to the findings required for the Planning Board to approve either the Conceptual or Detailed Site Plan (Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement), the Planning Board shall also find that:
- (a) The proposed development is in conformance with the purposes and other provisions of Part 10, Division 2, Subdivision 1 of the Zoning Ordinance (2019 Edition, 2020 Supplement);
 - (b) The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;
 - (c) The proposed development is compatible with existing and proposed development in the vicinity;
 - (d) The mix of uses, arrangement and design of buildings and other improvements, and provision of public amenities reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;
 - (e) If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;
 - (f) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity within the development and the immediate area and sidewalk improvements, internal pedestrian connections, connectivity with adjacent properties and other pedestrian-oriented development shall be evaluated.
 - (g) On the Detailed Site Plan, in areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial); and, in areas adjacent to existing homes or the adjacent park adequate attention has been paid to minimize any adverse impact of design or other amenities on these areas.

- (h) Applicant has submitted a noise study and shall use the appropriate noise and vibration mitigation measurements in developing the property; and
- (i) On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club).



PGCPB No. 2022-65

File No. CSP-21004

R E S O L U T I O N

WHEREAS, Harbor View LLC is the owner of a 20.09-acre parcel of land in the 12th Election District of Prince George's County, Maryland, the subject property is within the Residential, Multifamily-48 (RMF-48) Zone and a small northernmost portion of the larger property being also zoned Intensely Development Overlay (I-D-O); and

WHEREAS, the Prince George's County Planning Board is charged with the approval of Conceptual Site Plans, for the purpose of constructing a mixed-use development, pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code, as a companion case to Conservation Plan CP-21006; and

WHEREAS, a new Zoning Ordinance, Subtitle 27, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 27-1703(a) of the Zoning Ordinance, development applications submitted and accepted as complete before April 1, 2022, but still pending final action as of that date, may be reviewed and decided in accordance with the Zoning Ordinance in existence at the time of submission and acceptance of the application; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed this application under the Zoning Ordinance in existence prior to April 1, 2022; and

WHEREAS, in consideration of evidence presented at a public hearing on May 26, 2022, regarding Conceptual Site Plan CSP-21004 for National View, the Planning Board finds:

1. **Request:** The subject application is a conceptual site plan (CSP) for a mixed-use development consisting of up to 1,870 multifamily dwelling units, including up to 485 units for seniors, and approximately 289,000 square feet of office and commercial/retail space.

Conservation Plan CP-21006 was also approved by the Planning Board (PGCPB Resolution No. 2022-64) for the 1.73-acre portion of the property in the Intensely Development Overlay (I-D-O) Zone of the Chesapeake Bay Critical Area (CBCA), where only a 12-foot-wide shared-use path, with two-foot cleared space on either side, one stormwater management (SWM) facility, existing utility easements, proposed utility connections, and a picnic pavilion are proposed.

2. **Location:** The subject site is located approximately 1,000 feet north of I-95/495 (Capital Beltway) between the Woodrow Wilson Bridge and MD 210 (Indian Head Highway), and on the west side of Bald Eagle Drive. The northern portion of the site is within the municipal boundary of the Town of Forest Heights.

3. **Development Data Summary:**

| | EXISTING | APPROVED |
|---------------------------------------|-------------------------------|--|
| Zone | RMF-48 (prior M-X-T)/I-D-O | RMF-48 (prior M-X-T)/I-D-O |
| Use(s) | Vacant | Residential, Commercial/retail, and Office |
| Gross Acreage | 20.09 | 20.09 |
| Of which in CBCA | 1.73 | 1.73 |
| Net Acreage | 18.36 | 18.36 |
| Total Gross Floor Area (GFA)(sq. ft.) | - | 1,926,000 |
| Of which Office & Commercial | - | 289,000 |
| Residential | - | 1,637,000 |
| Total Multifamily Dwelling Units | - | 1,465–1,870 |
| Of which Senior living | - | 485 |

Floor Area Ratio in the M-X-T Zone

| | |
|------------------------------|-----------|
| Base Density Allowed: | 0.40 FAR |
| Residential Optional Method: | 1.00 FAR |
| Outdoor Plaza Optional: | 1.16 FAR |
| Total FAR Permitted: | 2.56 FAR* |
| Total FAR Proposed: | 2.41 FAR |

Note: *Maximum density allowed, in accordance with Section 27-545(b)(4), Optional method of development, of the Prince George’s County Zoning Ordinance, for providing 20 or more residential units and outdoor plaza. Exact floor area ratio will be determined at the time of detailed site plan.

4. **Surrounding Uses:** The subject property, consisting of two sites, Forest Heights Subdivision, Section 16, within the Town of Forest Heights, and the adjoining Butler property to the south, is located on the west side of Bald Eagle Drive. The generally triangular site is bounded to the north by existing single-family detached homes in the Forest Heights Subdivision in the Residential, Single-Family-65 Zone, to the east by National Park Service property in the Agriculture and Preservation Zone, and to the west by National Park Service property in the Reserved Open Space Zone.
5. **Previous Approvals:** The Forest Heights Subdivision, Section 16, within the Town of Forest Heights, in the northern part of the site, was platted in April 1956 and is comprised of Lots 61–91 in Block 122, Lots 13–24 in Block 123, and Lots 8–14 in Block 124, recorded in the Prince George’s County Land Records as Forest Heights, Section 16 at Plat Book 28, Page 5. The single-family lots on this site were never developed and the site has remained vacant.

The Butler House property, in the southern part of the site, is mostly wooded but has two historic residences and an existing electric utility right-of-way. The site is comprised of Parcels 26, 32, 33, 35, 36, and 37, which are not mapped within the Forest Heights municipal boundary. This section contains the Butler House (PG:76A-014/National Register), a Prince George's County historic site that was designated in 1981 and was listed in the National Register of Historic Places in March 2005. The Butler House property is adjacent to Mount Welby (PG:76A-013/National Register), also a Prince George's County historic site (designated in 1981), that is owned by the National Park Service and located within the Oxon Cove Farm. The Oxon Cove Farm property was listed in the National Register of Historic Places in September 2003. At least four outbuildings were located on the subject property from approximately 1965 until 1998, when the outbuildings were demolished.

On October 26, 2021, the Prince George's County District Council approved (via Zoning Ordinance No. 6-2021) Zoning Map Amendment A-10055, to rezone the subject site from One-Family Detached Residential (R-55) and Rural Residential (R-R) to the Mixed Use-Transportation Oriented (M-X-T) Zone, with five conditions.

6. **Design Features:** The narrow triangular site is on the west side of the constructed Bald Eagle Drive, which provides direct vehicular access to the proposed conceptual seven buildings. From north to south, the property depth increases, and the building footprints become larger. Buildings A, B, and C occupy the southern portion of the site with a rear loop road and a shared private street between Buildings B and C. Moving further to the north are Buildings D and E, with a private street between them. In the northern part, outside of the I-D-O Zone, is Building F, which is connected to Building E, and shares a looped road with Building G. The northernmost tip of the site is located in the I-D-O Zone and is preserved as open space with only a 12-foot-wide shared-use path running through it, connecting to an off-site trail system. The buildings range from 5 to 18 stories high and conceptually indicate roof decks, rooftop amenity spaces, outdoor plazas, internal parking garages, trash, and loading spaces.

Shade and viewshed studies have been provided with this application. The possible shadows created by the proposed development have been simulated at various times (9:00 a.m., 12:00 p.m., and 3:00 p.m.) on the days of Summer Solstice (June 21), Equinox (March/September 21) and Winter Solstice (December 21). With the exception of the shadow after 3:00 pm on the Winter Solstice, the adjoining existing single-family residences to the northeast of the site are completely outside the shadow of the proposed development. Only a few of the existing single-family detached residences are within the shadow of the proposed development on Winter Solstice after 3:00 p.m.

A viewshed study has also been performed at four vantage points, including viewpoints from the Capital Beltway Overpass, Cree Drive's highest and lowest points, and Mt. Welby Hill. The proposed development is dominating in the views from Cree Drive, where the existing single-family detached residences are located. The proposed development is slightly visible above the tree lines from the other two viewpoints. Due to the inherent difference in building massing between the existing single-family detached houses and the proposed mid- to high-rise buildings,

it is difficult to minimize the visual impact of the proposed buildings on the views from Cree Drive. At the time of detailed site plan (DSP), the applicant should exercise various design techniques, such as vertical division of the elevations into smaller modules, with a combination of building finish materials and architectural vocabularies, plus landscaping treatment of the northeastern boundary area, to minimize the visual impact of the proposed development on the existing single-family detached residences.

Given the scale and multiple phases of the proposed development, there are plenty of opportunities for the application of sustainable site and green building techniques in the development. The applicant should apply those techniques, as practical, at the time of DSP. A condition has been included herein, requiring the applicant to provide sustainable site and green building techniques that will be used in this development with the submittal of the DSP.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Map Amendment A-10055:** The District Council approved A-10055 on October 26, 2021, to rezone approximately 20.01 acres of R-55 and R-R-zoned land to the M-X-T Zone, with five conditions. The conditions of approval that are relevant to the review of this CSP warrant the following discussion:

- (1) **Prior to Conceptual Site Plan review and the issuance of any permit Applicant shall submit written evidence from the SHA indicating its approval of the proposed access to the property via the state-owned right of-way and with Mr. Lenhart's March 16, 2021 response to SHA's concerns with the Traffic Study (Exhibit 72).**

Evidence has been provided indicating that the Maryland State Highway Administration (SHA) has determined that the roundabout proposed by the applicant for access is not only acceptable, but is the preferred option. Furthermore, SHA issued a letter dated November 5, 2021, that acknowledges the proposed access and provides no further comments on this intersection. While the letter did include three remaining bullet points related to the MD 414 corridor, the study indicates that the intersections along the MD 414 corridor were projected to operate at a LOS (level of service) A or LOS B during the review of the zoning map amendment (ZMA). A new traffic study will be prepared and reviewed during the preliminary plan of subdivision (PPS), and that is the appropriate time to address any outstanding SHA concerns.

- (2) **The request will be subject to Conceptual and Detailed Site Plan approval in accordance with the strictures found in Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement). Additionally, special attention should be given to the development's compatibility with the surrounding area and any restrictions associated with the I-D-O Zone, as well as some appropriate recognition of the historic Butler House property.**

This CSP is submitted in fulfillment of this condition. In addition, the CSP shows a space for a Butler House exhibit, in conformance with this condition.

- (3) The Conceptual Site Plan shall include the following:**
- (a) A general description of the pedestrian system proposed;**
 - (b) The proposed floor area ratio;**
 - (c) The type and location of uses proposed, and the range of square footage anticipated to be devoted to each;**
 - (d) A general description of any incentives to be used under the optional method of development;**
 - (e) Areas proposed for landscaping and screening;**
 - (f) The proposed sequence of development; and**
 - (g) The physical and functional relationship of the project uses and components.**

The above seven elements are included in the submittal package of this CSP. A complete pedestrian system that connects to the off-site areawide system is proposed. Additional assessment will be carried out at the time of subsequent reviews.

The proposed floor area ratio (FAR) is at 2.4 by using the optional method of development with a discussion of incentive factors, including multiple dwelling units and public plazas, in findings below. The eastern boundary area, where the site is adjacent to the existing single-family detached residences, is proposed to be both woodland preservation (as not credited on TCP1) and landscaping areas.

The CSP proposes to develop this property in four phases, as follows:

- Phase 1: Residential Buildings E, F, and G along with main access private road, necessary off-site road improvements, including the proposed traffic circle within the SHA right-of-way, associated utilities to serve the site, and a pedestrian connection to the Town of Forest Heights
- Phase 2: Mixed-use Buildings A and B
- Phase 3: Mixed-use Building C
- Phase 4: Residential Building D

The proposed development phasing may be further modified with the changing market conditions as the development project progresses.

The CSP also shows the physical and functional relationship among the proposed five development envelopes.

- (5) In addition to the findings required for the Planning Board to approve either the Conceptual or Detailed Site Plan (Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement), the Planning Board shall also find that:**
- (a) The proposed development is in conformance with the purposes and other provisions of Part 10, Division 2, Subdivision 1 of the Zoning Ordinance (2019 Edition, 2020 Supplement);**
 - (b) The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;**
 - (c) The proposed development is compatible with existing and proposed development in the vicinity;**
 - (d) The mix of uses, arrangement and design of buildings and other improvements, and provision of public amenities reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;**
 - (e) If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;**
 - (f) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity within the development and the immediate area and sidewalk improvements, internal pedestrian connections, connectivity with adjacent properties and other pedestrian-oriented development shall be evaluated;**
 - (g) On the Detailed Site Plan, in areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial); and, in areas adjacent to existing homes or the adjacent park adequate attention has been paid to minimize any adverse impact of design or other amenities on these areas;**

- (h) **Applicant has submitted a noise study and shall use the appropriate noise and vibration mitigation measurements in developing the property; and**
- (i) **On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant (either wholly or, where authorized pursuant to Section 24- 124(a)(8) of the County Subdivision Regulations, through participation in a road club).**

This condition includes all required findings for approval of a site plan in the M-X-T Zone. Detailed discussion on the CSP's conformance with each finding can be found in Finding 9 below.

- 8. **Prior Prince George's County Zoning Ordinance:** The subject CSP has been reviewed for compliance with the requirements of the M-X-T Zone and the site design guidelines of the prior Zoning Ordinance.
 - a. The subject application is in conformance with the requirements of Section 27-547, Use Permitted, of the Zoning Ordinance, which governs uses in all mixed-use zones, as follows:
 - (1) The proposed multifamily residential units, including units for seniors, commercial/retail, and office uses, are permitted in the M-X-T Zone. Per Footnote 7 of the Table of Uses, the maximum number and type of dwelling units should be determined at the time of CSP approval. Therefore, development of this property would be limited to the numbers and types as proposed in this CSP, that cannot exceed 1,870 multifamily units, of which 485 are for senior living, with up to 289,000 square feet of office and commercial/retail space.
 - (2) Section 27-547(d) provides standards for the required mix of uses for sites in the M-X-T Zone, as follows:
 - (d) **At least two (2) of the following three (3) categories shall be included on the Conceptual Site Plan and ultimately present in every development in the M-X-T Zone. In a Transit District Overlay Zone, a Conceptual Site Plan may include only one of the following categories, provided that, in conjunction with an existing use on abutting property in the M-X-T Zone, the requirement for two (2) out of three (3) categories is fulfilled. The Site Plan shall show the location of the existing use and the way that it will be integrated in**

terms of access and design with the proposed development. The amount of square footage devoted to each use shall be in sufficient quantity to serve the purposes of the zone:

- (1) Retail businesses;**
- (2) Office, research, or industrial uses;**
- (3) Dwellings, hotel, or motel.**

This CSP proposes up to 1,870 multifamily dwellings and up to 289,000 square feet of commercial/retail, and office spaces, satisfying the requirement of Section 27-547(d). The proposed amount of multifamily dwellings, commercial/retail, and office space will complement the existing development in the vicinity of this site including those development projects in the National Harbor area.

- b. Section 27-548 of the Zoning Ordinance, M-X-T Zone regulations, establishes additional standards for the development in this zone. The CSP's conformance with the applicable provisions is discussed, as follows:

(a) Maximum floor area ratio (FAR):

- (1) Without the use of the optional method of development—0.40 FAR**
- (2) With the use of the optional method of development—8.0 FAR**

An FAR up to 2.41 is proposed in this CSP because the applicant elects to use the optional method of development, in accordance with Section 27-545(b)(4), Optional Method of Development, of the Zoning Ordinance. Specifically, the applicant intends to use Bonus Incentives (b)(4), Residential Use and (b)(6) Outdoor plaza, to achieve the FAR increment, as follows:

- (4) Residential use.**
 - (A) Additional gross floor area equal to a floor area ratio (FAR) of one (1.0) shall be permitted where twenty (20) or more dwelling units are provided.**

This subject CSP proposes 1,870 multifamily dwelling units that earns an FAR of 1.0 for this project.

- (6) Outdoor plaza.**
 - (A) Eight (8) gross square feet shall be permitted to be added to the gross floor area of the building for every one (1) square foot of outdoor plaza provided. The plaza shall be open to the sky, except for street furniture, landscaping, or similar items,**

or any sun or rain shades (not including open arcades) which cover not more than twenty percent (20%) of the plaza area. The plaza shall reflect a high degree of urban design which encourages a variety of human activities, such as walking and sitting in a pleasant public space. The plaza, and any buildings on the south side of the plaza, shall be arranged and designed to admit sunlight to the plaza. The plaza shall contain extensive plantings, a range of seating options, other street furniture, and works of art or water features, such as statuary, fountains, and pools. The plaza shall be surfaced in textured concrete, masonry, ceramic paving units, wood, or other approved special surfacing material. Lighting shall be furnished which provides for both safety and visual effect. The minimum size of a plaza shall be eighty (80) feet by one hundred (100) feet.

The CSP shows areas of outdoor plaza proposed for the project up to 116,875 square feet, which includes the proposed “woonerf treatment” areas, or shared space of 20,000 square feet at drop off areas at various intersections. These areas are envisioned as being an integral part of a long, dynamic outdoor plaza area along the western building façades that are larger than 80 by 100 feet. The 116,875 square feet multiple by 8 (Optional Method Bonus) would equate to an additional 1.16 FAR. Total FAR for this project with the credits earned by the two incentives, as discussed, is up to 2.56 and this CSP proposes an FAR of 2.41, which is below the maximum allowed density. Further details in conformance with this requirement will have to be provided at the time of DSP.

- (b) The uses allowed in the M-X-T Zone may be located in more than one (1) building, and on more than one (1) lot.**

The applicant proposes to include the uses in multiple buildings on more than one lot, as permitted.

- (c) Except as provided for in this Division, the dimensions for the location, coverage, and height of all improvements shown on an approved Detailed Site Plan shall constitute the regulations for these improvements for a specific development in the M-X-T Zone.**

This requirement is not applicable since this application is for a CSP. Subsequent DSP approvals will provide regulations for development on this property.

- (d) **Landscaping, screening, and buffering of development in the M-X-T Zone shall be provided pursuant to the provisions of the Landscape Manual. Additional buffering and screening may be required to satisfy the purposes of the M-X-T Zone and to protect the character of the M-X-T Zone from adjoining or interior incompatible land use.**

The development is subject to the requirements of the 2010 *Prince George's County Landscape Manual*. Additional buffering and screening may be required to satisfy the purposes of the M-X-T Zone, and to protect the character of the M-X-T Zone and the existing single-family detached residences from the proposed incompatible land uses, at the time of DSP.

- (e) **In addition to those areas of a building included in the computation of gross floor area (without the use of the optional method of development), the floor area of the following improvements (using the optional method of development) shall be included in computing the gross floor area of the building of which they are a part: enclosed pedestrian spaces, theaters, and residential uses. Floor area ratios shall exclude from gross floor area that area in a building or structure devoted to vehicular parking and parking access areas (notwithstanding the provisions of Section 27-107.01). The floor area ratio shall be applied to the entire property which is the subject of the Conceptual Site Plan.**

The FAR for the proposed CSP of gross floor area of 1,926,000 square feet on the net 18.36-acre property is 2.41. This will be refined further at the time of DSP, relative to the final proposed gross floor area of the buildings, in conformance with this requirement.

- (f) **Private structures may be located within the air space above, or in the ground below, public rights-of-way.**

There are no private structures within the air space above, or in the ground below public rights-of-way, as part of this project.

- (g) **Each lot shall have frontage on, and direct vehicular access to, a public street, except lots for which private streets or other access rights-of-way have been authorized pursuant to Subtitle 24 of this Code.**

The subject site is in a roughly triangular shape with a shallow lot depth on the west side of Bald Eagle Drive that provides direct vehicular access to all proposed seven buildings. Access and frontage will be further reviewed and approved at the time of PPS.

- (h) Townhouses developed pursuant to a Detailed Site Plan for which an application is filed after December 30, 1996, shall be on lots at least one thousand two hundred (1,200) square feet in size, and shall have at least sixty percent (60%) of the full front facades constructed of brick, stone, or stucco. In addition, there shall be no more than eight (8) townhouses per building group, except where the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than eight (8) dwelling units (but not more than ten (10) dwelling units) would create a more attractive living environment or would be more environmentally sensitive. In no event shall the number of building groups containing more than eight (8) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development. The minimum building width in any continuous, attached group shall be eighteen (18) feet, and the minimum gross living space shall be one thousand two hundred and fifty (1,250) square feet. For the purposes of this Subsection, gross living space shall be defined as all interior building space except the garage and unfinished basement or attic area. The minimum lot size, maximum number of units per building group and percentages of such building groups, and building width requirements and restrictions shall not apply to townhouses on land any portion which lies within one-half (½) mile of an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority and initially opened after January 1, 2000. In no event shall there be more than ten (10) dwelling units in a building group and no more than two (2) building groups containing ten (10) dwelling units. For purposes of this section, a building group shall be considered a separate building group (even though attached) when the angle formed by the front walls of two (2) adjoining rows of units is greater than forty-five degrees (45°). Except that, in the case of a Mixed-Use Planned Community, there shall be no more than eight (8) townhouses per building group, except when the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than eight (8) dwelling units (but not more than ten (10) dwelling units) would create a more attractive living environment or would be more environmentally sensitive. In no event shall the number of building groups containing more than eight (8) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development. The minimum building width in any continuous, attached group shall be eighteen (18) feet, and the minimum gross living space shall be one thousand two hundred and fifty (1,250) square feet. For the purposes of this Subsection, gross living space shall be defined as all interior building space except the garage and unfinished basement or attic area. Garages may not dominate the streetscape. Garages that are attached or incorporated into the dwelling shall be set back a minimum of four (4) feet from the front façade and there shall not be more than a single garage, not to exceed ten (10) feet wide, along the front façade of any individual unit. Garages may be incorporated into**

the rear of the building or freestanding in the rear yard and accessed by an alley. Sidewalks are required on both sides of all public and private streets and parking lots. At the time of Detailed Site Plan, the Planning Board or the District Council may approve a request to substitute townhouses, proposed for development as condominiums, in place of multifamily dwellings that were approved in a Conceptual Site Plan approved prior to April 1, 2004. Such substitution shall not require a revision to any previous plan approvals. Further, at the time of Detailed Site Plan for a Mixed-Use Planned Community, the Planning Board or the District Council may approve modifications to these regulations so long as the modifications conform to the applicable regulations for the particular development.

The subject CSP proposes only multifamily dwelling units and does not include any townhouses.

- (i) The maximum height of multifamily buildings shall be one hundred and ten (110) feet. This height restriction shall not apply within any Transit District Overlay Zone, designated General Plan Metropolitan or Regional Centers, or a Mixed-Use Planned Community.**

Given the nature of this CSP, no multifamily building architecture is included. This requirement will be further evaluated at the time of DSP when detailed information is available.

- (j) As noted in Section 27-544(b), which references property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, regulations for Conceptual or Detailed Site Plans (such as, but not limited to density, setbacks, buffers, screening, landscaping, height, recreational requirements, ingress/egress, and internal circulation) should be based on the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change and any referenced exhibit of record for the property. This regulation also applies to property readopted in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006 and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation of a concurrent Master Plan or Sector Plan (see Section 27-226(f)(3) of the Zoning Ordinance).**

The subject property was placed in the M-X-T Zone through A-10055. Therefore, this requirement does not apply.

- c. The subject application has been reviewed for conformance with the requirements of Section 27-546(d) of the Zoning Ordinance, which requires additional findings for the Prince George's County Planning Board to approve a CSP in the M-X-T Zone, as follows:

(1) The proposed development is in conformance with the purposes and other provisions of this Division:

The proposed development is in conformance with the purposes of the M-X-T Zone. For example, one purpose of the M-X-T Zone is to promote orderly development of land in the vicinity of major intersections to enhance the economic status of Prince George's County. The proposed development, consisting of up to 1,870 multifamily dwelling units, including senior living units, and up to 289,000 square feet of office and commercial/retail space, will provide additional housing types in the National Harbor area and increase economic activity proximate to the major intersection of MD 210 and the Capital Beltway. It also allows for the reduction of the number and distance of automobile trips by constructing residential and nonresidential uses near each other. This CSP, in general, promotes the purposes of the M-X-T Zone and contributes to the orderly implementation of the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035).

(2) For property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, the proposed development is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;

The subject site was rezoned M-X-T through A-10055, not through a sectional map amendment.

(3) The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;

The proposed development will be outwardly oriented toward Bald Eagle Drive. The subject site is located at the southernmost edge of an established community. The proposed development in this CSP will be physically and visually close to the interchange of the Capital Beltway and MD 210 and will serve as a barrier between the transportation facilities and the adjacent neighborhood to the north. Additional attention will be given to the design of buildings at the time of DSP to minimum visual impacts on the neighboring single-family detached homes. Given the mixed-use nature of the proposed development, this project will inject new economic vitality in the community.

(4) The proposed development is compatible with existing and proposed development in the vicinity;

The proposed development is compatible with the development in the vicinity, which includes an existing established neighborhood of single-family detached houses that is in close proximity to the intersection of the Capital Beltway and MD 210. The proposed development consists of larger building massing and volume that must be skillfully designed at later stages, in order to minimize the visual impact on the existing homes. According to the shade and viewshed studies submitted with this CSP, the possible impact of the project on the existing homes, due to the proposed larger building massing, will be limited in terms of shadow and visuals of the buildings through design techniques. If the project is designed correctly in subsequent stages, plus sufficient buffering being added, a compatible and greatly improved built environment can be achieved that will provide an organic barrier for the existing neighborhood from the busy interchange of the Capital Beltway and MD 210.

(5) The mix of uses, arrangement and design of buildings and other improvements, and provision of public amenities reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;

Once the proposed development of this CSP is in place, the mix of uses, arrangement of buildings, and other improvements and amenities will produce a cohesive development capable of sustaining an independent environment of continuing quality and stability. The proposed development concept of multifamily dwellings, commercial/retail, and office uses will create new market synergy in the close vicinity of the National Harbor area.

(6) If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;

Due to the shallow, triangular shape of the site, the development is envisioned to be carried out in four phases, which may be further adjusted to fit the market variations. According to the phasing plan, the construction will start with Residential Buildings E, F, and G, then gradually evolve into Mixed-use Buildings A, B, and C, and finish with Residential Building D. Each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases.

(7) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity within the development;

This requirement will be further evaluated in detail, at the time of both PPS and DSP. The illustrative pedestrian and bicycle exhibit, submitted with the CSP, shows sidewalks adjacent to roadways, connecting to each section of the development.

- (8) **On the Detailed Site Plan, in areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial); and**

The above finding is not applicable because the subject application is a CSP.

- (9) **On a Conceptual Site Plan for property placed in the M-X-T Zone by a Sectional Map Amendment, transportation facilities that are existing; that are under construction; or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, or the current State Consolidated Transportation Program, will be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club), or are incorporated in an approved public facilities financing and implementation program, will be adequate to carry anticipated traffic for the proposed development. The finding by the Council of adequate transportation facilities at the time of Conceptual Site Plan approval shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.**

The subject property was placed in the M-X-T Zone through A-10055, not through a sectional map amendment. Therefore, this finding is not applicable.

- (10) **On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant (either wholly or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, through participation in a road club).**

The above finding is not applicable because the subject application is a CSP.

- (11) On a property or parcel zoned E-I-A or M-X-T and containing a minimum of two hundred fifty (250) acres, a Mixed-Use Planned Community including a combination of residential, employment, commercial and institutional uses may be approved in accordance with the provisions set forth in this Section and Section 27-548.**

The subject property measures 20.09 acres and does not meet the above acreage requirement. Furthermore, this CSP does not propose development of a mixed-use planned community. Therefore, this requirement is not applicable.

- d. The CSP is in conformance with the applicable site design guidelines contained in Section 27-274 of the Zoning Ordinance. The proposed development concept provides a mix of residential, commercial/retail, and office uses served by a spine road for vehicles and a parallel pedestrian network that is proposed to further connect to the areawide trail system. In addition, the CSP notes that architecture for the buildings will provide a variety of architectural elements to convey the individuality of each, while providing for a cohesive design. Detailed designs of all buildings, site infrastructure, recreational facilities, and amenities will be further reviewed at the time of DSP.

Specifically, the CSP anticipates adequate levels of lighting for safe vehicular and pedestrian movement, while not causing glare or spillover onto adjoining properties by using full cut-off light fixtures throughout the development. The CSP is designed to preserve, create, and emphasize views from public roads and minimize visual impact on the adjoining properties. All buildings will be designed to provide a modern, clean, and strong presence along the Bald Eagle Drive frontage.

The proposed site and streetscape amenities in this project will contribute to an attractive, coordinated development. The CSP envisions attractive site fixtures that will be made from durable, high-quality materials and will enhance the site for future residents and patrons.

Landscaping will be provided in common areas, such as open plazas, along with street trees along the private roads, and extensive landscape planting in the eastern boundary area will further screen the development from views of the adjacent residential neighborhood to the northeast. It is anticipated and expected that the future builder of the residential units will provide high-quality architecture that will include a variety of architectural elements and articulation, to promote individuality and aesthetically pleasing appearances.

In addition to a centrally located plaza between Buildings C and B, additional open spaces and traffic circles branch out from the spine road, which will be designed with extra amenities and special paving. Many segments of the roadway will have the woonerf treatment that creates a very pedestrian friendly walking environment. Those design issues will be further evaluated at the time of PPS and DSP when detailed information is available.

- e. In accordance with Section 27-574 of the Zoning Ordinance, the number of parking spaces required in the M-X-T Zone is to be calculated by the applicant and submitted for Planning Board approval, at the time of DSP. Detailed information regarding the methodology and procedures to be used in determining the parking ratio is outlined in Section 27-574(b). At the time of DSP review, demonstration of adequacy of proposed parking, including visitor parking and loading configurations, will be required.

9. **Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance:** The property, except for the 1.73 acres in the I-D-O Zone, is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size and contains more than 10,000 square feet of existing woodland. As required by the WCO, TCP1-009-2022 was submitted with the CSP.

- a. Through various past proposals, a natural resources inventory (NRI) was submitted on the single lot area (north) and just recently with the Butler Tract (south).

The single lot area inside and outside the CBCA has an approved NRI (184-14) that expires on August 30, 2022. The NRI correctly shows the existing conditions of the property. There are specimen trees throughout this NRI study area. The site does not contain wetlands, streams, or 100-year floodplain. The CSP shows all of the required information correctly, in conformance with the NRI.

The Butler Tract, located outside the CBCA, has an approved NRI (146-2019) that expires on March 25, 2025. The site does not contain wetlands, streams, or 100-year floodplain; however, this portion of the site contains steep slopes, and specimen trees are located throughout the site. The TCP1 shows all the required information correctly, in conformance with the NRI.

- b. The TCP1 shows the proposed development with buildings, interior roadways, SWM structures, utilities, and woodland preservation areas. Based on the revised TCP1, the overall site contains a total of 14.69 acres of net tract woodlands. The plan shows a proposal to clear 11.44 acres of on-site woodland, for a woodland conservation requirement of 5.61 acres. Currently, the plan view and woodland conservation worksheet shows 2.56 acres of on-site preservation to meet the woodland requirement. The worksheet must show the remaining 3.05 acres of woodland requirement as “off-site woodland credits required.” The applicant needs to purchase the woodland credits within the Potomac River watershed before the first permit. The proposed development is in general conformance with the WCO, subject to some technical revisions, as conditioned herein.
- c. Section 25-122(b)(1)(G) of the WCO 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 application area has had two full NRI investigations on the platted and Butler areas. The NRI’s were completed by two different companies, and some specimen tree identification numbers overlap. The platted NRI has specimen trees with no letters before the numbers, and the Butler NRI has “ST” before the specimen tree number.

The site contains 35 specimen trees, of which five are located within the CBCA. Specimen trees within the CBCA are not applicable to Subtitle 25 of the WCO and are not reviewed as part of this specimen tree removal variance. The 30 specimen trees located outside the CBCA have condition ratings of excellent (ST-12), good (ST-9, ST-13, ST-14, ST-15, 8, 11, and 17), fair (ST-2, ST-3, ST-11, ST-19, ST-39, 9, 13, and 19), good/fair (12 and 14), fair/poor (10), and poor (ST-1, ST-4, ST-5, ST-6, ST-7, ST-8, ST-10, ST-18, ST-20, ST-21, ST-38, and 18). The current design proposes to remove 22 specimen trees total with condition ratings as follows: excellent (one tree), good (four trees), fair (six trees), good/fair (two trees), and poor (eight trees) conditions.

A Subtitle 25 variance application dated April 19, 2022, was received for review with this application.

Section 25-119(d)(1) of the WCO contains six required findings be made before a variance can be granted. The letter of justification submitted seeks to address the required findings for the 22 specimen trees, and details specific to individual trees have been provided in the following chart.

SPECIMEN TREE SCHEDULE SUMMARY

| ST # | LOCATED ON WHICH NRI | COMMON NAME | Diameter (in inches) | CONDITION | TREE WITHIN CBCA | RETAIN/REMOVE |
|-------|----------------------|--------------|----------------------|-----------|------------------|---------------|
| ST-1 | 146-2019 | Willow Oak | 59 | Poor | | Retain |
| ST-2 | 146-2019 | White Oak | 43 | Fair | | Remove |
| ST-3 | 146-2019 | White Oak | 41 | Fair | | Remove |
| ST-4 | 146-2019 | S. Red Oak | 42 | Poor | | Remove |
| ST-5 | 146-2019 | White Oak | 42 | Poor | | Remove |
| ST-6 | 146-2019 | S. Red Oak | 42 | Poor | | Remove |
| ST-7 | 146-2019 | Black Walnut | 34 | Poor | | Remove |
| ST-8 | 146-2019 | White Oak | 40 | Poor | | Remove |
| ST-9 | 146-2019 | Tulip Poplar | 39 | Good | | Remove |
| ST-10 | 146-2019 | Tulip Polar | 35 | Poor | | Remove |
| ST-11 | 146-2019 | Tulip Poplar | 42 | Fair | | Remove |
| ST-12 | 146-2019 | Tulip Poplar | 35 | Excellent | | Remove |
| ST-13 | 146-2019 | Tulip Poplar | 39 | Good | | Retain |
| ST-14 | 146-2019 | Tulip Poplar | 43 | Good | | Remove |
| B14 | 184-14 | | | | | |
| ST-15 | 146-2019 | S. Red Oak | 36 | Good | | Remove |

| ST # | LOCATED ON WHICH NRI | COMMON NAME | Diameter (in inches) | CONDITION | TREE WITHIN CBCA | RETAIN/REMOVE |
|--------------|----------------------|----------------|----------------------|-----------|------------------|---------------|
| B15 | 184-14 | | | | | |
| ST-18 B18 | 146-2019 184-14 | White Oak | 36 | Poor | | Remove |
| ST-19 B19 | 146-2019 184-14 | Tulip Polar | 30 | Fair | | Remove |
| ST-20 B20 | 146-2019 184-14 | White Oak | 38 | Poor | | Retain |
| ST-21 B21 | 146-2019 184-14 | American Beech | 37 | Poor | | Retain |
| ST-38 B38 | 146-2019 184-14 | American Beech | 33 | Poor | | Remove |
| ST-39 B39 | 146-2019 184-14 | Tulip Polar | 32 | Fair | | Remove |
| 1 | 184-14 | Post Oak | 37 | Good | * | Retain |
| 2 | 184-14 | Black Oak | 34.5 | Fair | * | Retain |
| 5 | 184-14 | Blackjack Oak | 30 | Good | * | Retain |
| 6 | 184-14 | White Oak | 30 | Poor | * | Remove |
| 8 | 184-14 | Red Maple | 32 | Good | | Retain |
| 9 | 184-14 | White Oak | 34 | Fair | | Retain |
| 10 | 184-14 | White Oak | 56 | Fair/Poor | * | Retain |
| 11 | 184-14 | Tulip Poplar | 32 | Good | | Remove |
| 12 | 184-14 | Tulip Poplar | 36 | Good/Fair | | Remove |
| 13 | 184-14 | Tulip Poplar | 34 | Fair | | Remove |
| 14 | 184-14 | Black Cherry | 34 | Good/Fair | | Remove |
| 17 | 184-14 | White Oak | 50 | Good | | Retain |
| 18 | 184-14 | Oak | 42 | Poor | | Retain |
| 19 | 184-14 | White Oak | 31 | Fair | | Retain |

A variance from Section 25-122(b)(1)(G) is requested for the clearing of the 22 specimen trees on-site. The site consists of 20.09 acres and is within the prior M-X-T Zone. The current proposal for this application area outside the CBCA is to construct a mixed-use development consisting of residential, retail/commercial, and office uses with surface parking, and various SWM facilities. This variance is requested to the WCO, which requires, under Section 25-122 of the Zoning Ordinance, 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 statement of justification of how the findings are being met.

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;

In relation to other properties in the area, special conditions peculiar to the property would cause an unwarranted hardship if the applicant were required to retain these 22 specimen trees identified as ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-14, ST-15, ST-18, ST-19, ST-38, and ST-39, as shown on NRI-146-2019; and specimen trees 11, 12, 13, and 14, as shown on NRI-184-14. Most of the application area is wooded, and in order to develop the site, woodland clearing is required. The property was rezoned M-X-T by the District Council. To achieve the development potential of the site, not all of the on-site woodland and specimen trees can be preserved. Steep slopes are located throughout the site, requiring significant grading to allow the proposed development. Retaining these 22 specimen trees would make this proposed development impossible. The remaining nine specimen trees will be preserved within the on-site woodland preservation areas, with condition ratings of good (three specimen trees), fair (two specimen trees), and poor (four specimen trees). The proposed use, as a mixed-use development, is a significant and reasonable use for the subject site, and it cannot be accomplished elsewhere on the site without the requested variance. Development cannot occur on the portions of the site containing primary management area (PMA), which limits the site area available for development. To avoid impact on the PMA, additional woodland will need to be cleared, that results in removal of said specimen trees. Requiring the applicant to retain the 22 specimen trees on the site would further limit the area of the site available for development to the extent that it would cause the applicant an unwarranted hardship.

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

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas. The site contains 30 specimen trees outside the CBCA, and the applicant is proposing to remove 22 of these trees. These 22 trees are being removed due to their central location within the proposed development area. The applicant is preserving 2.56 acres for their woodland conservation requirements on-site, and the nine specimen trees are located within this preservation area. This application is saving more specimen trees and on-site woodland preservation than similar developments in the prior M-X-T Zone.

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

Not granting the variance would prevent the project from being developed in a functional and efficient manner for properties in the prior M-X-T Zone. This is not a special privilege that would be denied to other applicants. If other similar developments in the prior M-X-T Zone were fully wooded with specimen trees in

similar conditions and locations, it would be given the same considerations during the review of the required variance application.

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

The applicant has taken no actions leading to the conditions or circumstances that are the subject of the variance request. The removal of the 22 specimen trees is the result of the trees being located throughout the application area, and the allowable density to achieve optimal development of the prior M-X-T Zone.

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

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

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

Granting this variance request will not violate water quality standards nor cause measurable degradation in water quality. The project is subject to SWM regulations, as implemented by DPIE. The project is subject to environmental site design, to the maximum extent practicable. The removal of the 22 specimen trees will not directly affect water quality. The unapproved SWM concept plan shows the use of 18 bioretention facilities and 6 storm filters.

Erosion and sediment control requirements are reviewed and approved by the Soil Conservation District. Both SWM and sediment and erosion control requirements are to be met, in conformance with state and local laws, to ensure that the quality of water leaving the site meets the state's standards, which are set to ensure that no degradation occurs.

Specimen Tree Removal Summary

The application proposes the removal of 22 specimen trees (ST-2, ST-3, ST-4, ST-5, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-14, ST-15, ST-18, ST-19, ST-38, and ST-39, as shown on NRI-146-2019, and Specimen Trees 11, 12, 13, and 14, as shown on NRI-184-14), all located outside the CBCA. A variance was submitted for the removal of a total of 22 specimen trees, and the required findings of Section 25-119(d) have been adequately addressed. The Planning Board approves this variance request.

10. **Other site-related regulations:** Additional regulations are applicable to site plan review that usually require detailed information, which can only be provided at the time of DSP. The discussion provided below is for information only:

- a. **2010 Prince George’s County Landscape Manual:** The application is subject to Section 4.1, Residential Requirements; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements; and Section 4.10, Street Trees Along Private Streets, of the 2010 *Prince George’s County Landscape Manual*. Conformance with the applicable landscaping requirements will be reviewed at the time of DSP.
 - b. **Prince George’s County 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 a grading permit. Properties zoned M-X-T are required to provide a minimum of 10 percent of the gross tract area covered by tree canopy. The subject site is 20.09 acres in size and the required TCC is 2.01 acres, or 87,556 square feet. Conformance with the requirements of the Tree Canopy Coverage Ordinance will be ensured at the time of DSP.
11. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized, as follows:
- a. **Historic Preservation**—The Planning Board reviewed and adopts a memorandum dated April 20, 2022 (Stabler and Smith to Zhang), incorporated herein by reference, noting that the Historic Preservation Commission reviewed the subject application at its April 19, 2022 meeting and voted 5-0 to forward the conclusions and recommendations to the Planning Board for its review, as follows:
 - The Butler House is in ruinous condition. Nevertheless, the applicant will need to apply for an Historic Area Work Permit to demolish and remove the Butler House ruins, prior to development. The ruins should be removed in a careful manner to allow for possible archeological investigations of the area below and around the house.
 - To mitigate for the loss of the Butler House Historic Site and its historic context, the applicant will be required to develop a comprehensive plan for permanently commemorating the history and significance of the property. These commemorative measures may include, but not be limited to, narrative and commemorative signage, web-based educational materials, and/or the potential reconstruction of the Butler House in whole or in part, as means of telling the unique story of the property.
 - The existing environmental setting of the historic site includes all 2.23 acres that make up Parcel 35. This environmental setting should remain in place throughout the development process and may be reduced and relocated by the Historic Preservation Commission to facilitate development and to aid in the commemoration of the property. The Historic Preservation Commission (HPC)

does not have the authority to eliminate the environmental setting in its entirety. The applicant should work with the HPC on the ultimate character and location of the environmental setting as part of the interpretive and mitigative measures that will commemorate the Butler House Historic Site, as well as the history of the other African American occupants of the property. The interpretive measures to be developed by the applicant and reviewed by the HPC will require approval through the Historic Area Work Permit process if they are located within the existing environmental setting. If they are to be located outside the environmental setting, the applicant will be required to complete those plans and potentially complete the interpretive measures, prior to the potential reduction and relocation of the environmental setting.

- The proposed development will be highly visible from the Mt. Welby Historic Site. Through the DSP process, the applicant should work with the Prince George's County Planning Department and HPC staff to reduce the visibility of proposed construction from the Mt. Welby Historic Site, as well as to address the effects of scale and massing of the development on the adjacent national park, Oxon Cove Park and Oxon Hill Farm.
- Bald Eagle Road, which extends north-south through the subject property, was a main artery of the north-south postal roads running from the New England colonies through New York, Philadelphia, and Baltimore to a point near Bladensburg. The branch that ran to the early settlements in Southern Maryland through the subject property was known as River Road. During the Civil War, Union troops and their provisions were moved up and down the road and cut it up so badly that a new road had to be built around and bypassing it. The road was then only used to access the Butler, Gray, and Hatton residences. As much of this historic road as possible should be preserved within the development, possibly as a trail, and interpretive measures should discuss the significance of this ancient route.
- Due to the lack of intact cultural features and diagnostic artifacts found in the Phase II archeological investigations at sites 18PR1152 and 18PR1153, no further work was recommended on either site. Historic Preservation staff concurs with the report's findings and conclusions that no further work is necessary on sites 18PR1152 and 18PR1153. Staff also concurs that, if possible, the brick-lined well within site 18PR1151 should be filled and capped and preserved in place. If this is not possible, additional investigations may be requested. Staff also concurs with the report's findings and conclusions that the area of the site containing periwinkle should be investigated by mechanical means to determine if any human burials are present on the property. The applicant's consultant archeologist should also examine the areas below the ruins of the Butler House and in the vicinity of the house foundation to determine if significant intact archeological deposits or features are present.

- After a discussion regarding the applicant's proposed changes to staff's Condition 2, the HPC voted to forward staff's recommendation as originally written to the Planning Board for its review. The HPC noted that the main concern was the viewshed of the Butler House, but impacts to the entire site, including its environmental setting should be taken into account during review of subsequent applications. On May 17, 2022, the HPC held a reconsideration hearing and voted to revise its Condition 2, to be consistent with the language approved by the District Council in A-10055-C. The language revised by HPC is incorporated in this resolution as Condition 3d.

The HPC recommends to the Planning Board approval of CSP-21004 for National View, subject to three conditions that have been included herein.

- b. **Community Planning**—The Planning Board reviewed and adopts a memorandum dated April 27, 2022 (Tariq to Zhang), incorporated herein by reference, which stated that, pursuant to Part 3, Division 9, Subdivision 2, of the Zoning Ordinance, master plan conformance is not required for this CSP application.

The subject property is located within Plan 2035's designated established communities policy area. Plan 2035's vision for the established communities is "context-sensitive infill and low- to medium-density development," (page 20). The proposed high-density, mixed-use development is not supported by the recommended land use for the Established Communities Growth Policy area.

The 2000 *Approved Master Plan and Sectional Map Amendment for the Heights and Vicinity* (Planning Area 76A) (The Heights and Vicinity Master Plan and SMA) does not recommend mixed land uses for the subject property similar to those recommended in the M-X-T Zone. The proposed high-density mixed-use development does not conform to the recommended infill development that is compatible with the low-density character of the surrounding neighborhoods (The Heights and Vicinity Master Plan and SMA, page 13).

However, the District Council approved A-10055 rezoning the subject property to the M-X-T Zone that permits the development included in this CSP.

- c. **Transportation Planning**—The Planning Board reviewed and adopts a memorandum dated April 29, 2022 (Masog to Zhang), incorporated herein by reference, which provided a review of the subject application for conformance with previously approved A-10055 and governing plans, including the 2014 *Approved Eastover/Forest Heights/Glassmanor Sector Plan and Sectional Map Amendment*, the 2009 *Approved Countywide Master Plan of Transportation*, and The Heights and Vicinity Master Plan and SMA. The review of adequacy will occur with the review of the PPS and, at that time, a trip cap will be established to limit the off-site traffic impact of the overall project.

The Planning Board concludes that, from the standpoint of transportation, it is determined that this plan is acceptable, meets the required findings and, therefore, approves of this CSP with conditions that have been included in this resolution.

- d. **Subdivision**—The Planning Board reviewed and adopts a memorandum dated April 28, 2022 (Gupta to Zhang), incorporated herein by reference, which provided plan comments, as follows:
- The CSP depicts seven development parcels, one private road parcel, and two open space parcels for illustrative purposes; however, the lotting pattern will be determined at the time of PPS review.
 - Several public streets (Chippewa Drive, Crow Way, and Bald Eagle Drive) are proposed to be vacated by this proposal. All of these streets are currently unimproved. Vacation of these streets shall be complete, prior to filing of final plats.
 - The CSP identifies multiple locations, evenly distributed within the residential areas, for provision of on-site recreational facilities. Adequacy of any on-site recreational facilities to satisfy the mandatory parkland dedication requirement will be determined at the time of PPS review.
 - Pursuant to Section 24-121(a)(4) of the prior Prince George’s County Subdivision Regulations, residential lots adjacent to an existing or planned roadway of freeway or higher classification, shall be platted with a depth of 300 feet. It is recommended that any future parcels with residential use be provided in accordance with the Subdivision Regulations and that appropriate mitigation be provided to protect dwellings from traffic noise and nuisances, which will be further evaluated at the time of PPS. The CSP includes residential development area within 300 feet of the right-of-way line for the Capital Beltway. A Phase 1 noise study should be provided at the time of PPS so that the placement of residential development parcels and any planned outdoor recreation areas are located and/or mitigated to avoid adverse traffic impacts. The CSP site plans show an unmitigated 65dBA noise contour line along the southern portion of the site.
 - Access to the property is proposed from Bald Eagle Drive located to the south, which is a state road. No right-of-way dedication is proposed along the property’s frontage of Bald Eagle Drive. Private streets with varying rights-of-way and pavement widths are shown. Section 24-128(b)(7) of the prior Subdivision Regulations permits private streets in the M-X-T-Zone only for attached single-family dwellings, two-family dwellings, and three-family dwellings. Private streets in the M-X-T-Zone are not permitted for multifamily dwellings or any other nonresidential development. The lotting and circulation

pattern, and any required street right-of-way dedication will be reviewed further with the PPS application.

A seven-foot-wide public utility easement (PUE) is shown on the CSP, as proposed along private streets. The location of required PUEs will be determined along all public and private streets with the PPS. Section 24-128(b)(12) requires a 10-foot-wide public utility easement along one side of all private rights-of-way. The applicant may request and provide justification for a variation at the time of PPS for PUEs which are proposed to be less than 10-feet-wide.

- Parcels 26, 27, 32, 33, 35, 36, and 37 are located in Water/Sewer Category 6. Before a PPS can be approved, a water and sewer category change for these parcels to be located in Category 4 will be required.

The Planning Board approves this CSP, subject to conditions that have been included in this resolution.

- e. **Environmental Planning**—The Planning Board reviewed and adopts a memorandum dated April 25, 2022 (Schneider to Zhang), incorporated herein by reference, which provided a review of CSP-21004, TCP1-009-2022, and CP-21006 for conformance with requirements of the I-D-O Zone and the provisions of the WCO. Some findings have been included above and additional findings are summarized, as follows:

Soils/Unsafe Soils: According to the U.S. Department of Agriculture, Natural Resources Conservation Service, and Web Soil Survey, the Butler Tract area contains the following soil types: Beltsville silt loam, Beltsville–Urban land complex, Sassafras and Croom soils, and Sassafras sandy loam series. Neither Marlboro clay nor Christiana complex occur in this area.

The single lot area in the north contains the following soil types Croom–Urban land complex, Sassafras and Croom soils, and Udorthents soil series. Neither Marlboro clay nor Christiana clay occur in this area.

The site elevation varies significantly, sloping down toward north in elevation, approximately elevation 196 to elevation 40. Mass grading and site retaining walls are proposed. In communication with DPIE reviewers, a geotechnical report is required to verify the subsoil conditions and the slope stability. A global stability analysis on cross sections of the proposed retaining walls is required if the wall height is taller than 10 feet, or taller than 6 feet with 3H:1V backslope. Because of the mass grading of the site, the subject application area is required to submit a geotechnical soils investigation report, prior to CSP and CP certification.

Stormwater Management: An unapproved SWM Concept Plan (49501-2021-00) was submitted with the subject application. Currently, the SWM concept plan is under review by the DPIE Site Road Section. The SWM concept plan proposes stormwater to be

directed into 18 bioretention facilities and 6 storm filters. Submittal of the approved SWM concept plan and letter showing the proposed buildings, interior roads, and surface parking will be required, prior to TCP1 certification.

The Planning Board approves CSP-21004 and TCP1-009-2022, subject to conditions that have been included in this resolution.

- f. **Prince George’s County Department of Parks and Recreation (DPR)**—The Planning Board reviewed and adopts a memorandum dated April 29, 2022 (Sun to Zhang), incorporated herein by reference, in which DPR noted multiple developed Maryland-National Capital Park and Planning Commission (M-NCPPC)-owned parks, in proximity of the proposed development.

A segment of the Oxon Hill Farm Trail runs behind Bell Acres Park. Funding was approved in the FY21–FY26 CIP for rehabilitation and extension of the Oxon Run Trail in this location. The Potomac Heritage Trail also connects to the Oxon Hill Farm Trail, crossing the Capital Beltway and heading south along Oxon Hill Road.

The 2014 *Approved Eastover/Forest Heights/Glassmanor Sector Plan and Sectional Map Amendment* encourages building upon the existing pathways and completion of the trail network in the area. The applicant has indicated plans to promote walking through new connections to the established trail system from the proposed future development.

The Heights and Vicinity Master Plan and SMA recommends the acquisition by M-NCPPC of a 10-acre parcel on a portion of the applicant’s property near the historic Butler House (76A-014). The master plan recommends acquisition for passive parkland uses as well as community gardens. The applicant proposes interpretation of the historic Butler Property and the creation of rooftop community gardens as part of the development plan. DPR staff has no issues with the applicant’s current proposal to provide the historic interpretation on the Butler Property. Further details shall be provided with the future development plans for this project.

Because a portion of development consists of residential uses, mandatory dedication of parkland is required at the time of PPS. Due to the large numbers of new residents proposed by this development, the mandatory dedication requirements and options for this development will be fully evaluated with the submission of the PPS.

The applicant has provided conceptual information on trail connections, on-site recreational facilities, covered public pavilions, and community gardens, which may be sufficient in meeting mandatory dedication requirements. DPR staff recommends that the applicant look at creating a centralized open green space (with a public use easement) to serve not just the residential community but the entire development. The details of the proposed facilities will be reviewed with future applications.

- g. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE)**—The Planning Board reviewed and adopts a memorandum dated May 23, 2022 (Giles to Zhang), included herein by reference, in which DPIE stated that Site Development Concept Plan 49501-2021-0 is under review and approval is required. This concept may be updated at the time of PPS or DSP, to address road alignments, private road access, right-of-way dedication for public streets, public utility easements, detailed analysis of stormwater management, outfall analysis, and private roads designed as per Section 24-128 of the Subdivision Regulations. The remaining comments will be enforced through DPIE’s separate permitting process.
- h. **Prince George’s County Health Department**—The Planning Board reviewed and adopts a memorandum dated March 29, 2022 (Adepoju to Zhang), included herein by reference, in which the Health Department provided eight comments, as follows:
- Health Department permit records indicate there are approximately three carryout/convenience store food facilities and no markets/grocery stores within a 0.5-mile radius of this location. Research has found that people who live near an abundance of fast-food restaurants and convenience stores compared to grocery stores and fresh produce vendors, have a significantly higher prevalence of obesity and diabetes. The developer should designate some commercial space for a food facility that provides healthy food options such as fruits and vegetables for the surrounding community.
 - The applicant should apply for a raze permit with DPIE for removal of the existing houses on the lot.
 - The current water and sewer category is W-6 and S-6 for the proposed development for individual systems. The applicant must contact the Water and Sewer coordinator at DPIE to apply for the water and sewer category changes to W-3 and S-3 for community systems.
 - Ensure all well and septic structures that are discovered on the property are to be abandoned and backfilled according to regulatory standards prior to construction.
 - Indicate how the project will provide for pedestrian access to the site by residents of the surrounding community. Scientific research has demonstrated that a high quality pedestrian environment can support walking both for utilitarian purposes and for pleasure, leading to positive health outcomes. Indicate how development of the site will provide for safe pedestrian access to amenities in the adjacent communities.
 - The comprehensive design plans should include “pet friendly” amenities for pets and their owners. Pet refuse disposal stations and water sources are strongly recommended at strategic locations.

The above comments have been transmitted to the applicant. Issues such as pedestrian network and pet-friendly amenities, such as a dog park are noted in this CSP and will be provided in the subsequent DSP.

- During the construction phases of this project, noise should not be allowed to adversely impact activities on the adjacent properties. Indicate intent to conform to construction activity noise control requirements, as specified in Subtitle 19 of the Prince George’s County Code.
- During the construction phases of this project, no dust should be allowed to cross over property lines and impact adjacent properties. Indicate intent to conform to construction activity dust control requirements, as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.

Those two comments will need to be included in the site plan notes on the DSP.

- i. **Critical Area Commission (CAC)**—The Planning Board received an email from the CAC, dated April 25, 2022, incorporated herein by reference, which indicated that they do not oppose the application, but stated that “The project must comply with all IDO requirements, including the 10 percent pollutant reduction requirement.”
 - j. **National Park Service (NPS)**—At the time of preparation of this resolution, NPS did not provide any comments on this CSP.
12. Based on the foregoing and as required by Section 27-276(b)(1) of the prior Zoning Ordinance, the CSP, approved with the conditions below, represents a reasonable alternative for satisfying the site design guidelines without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.
 13. Section 27-276(b)(4) for approval of a CSP, requires that the regulated environmental features on-site have been preserved and/or restored in a natural state, to the fullest extent possible, in accordance with the requirements of Section 24-130(b)(5) of the prior Prince George’s County Subdivision Regulations. The subject CSP proposes no impacts to regulated environmental features and, therefore, this finding can be made with the proposed development.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George’s County Code, the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Type 1 Tree Conservation Plan TCP1-009-2022 with a variance for the removal of 22 specimen trees, and further APPROVED Conceptual Site Plan CSP-21004 for the above-described land, subject to the following conditions:

1. Prior to certification of the conceptual site plan (CSP), the applicant shall:
 - a. Remove any proposed public utility easements from the plans.

- b. Revise Type 1 tree conservation plan, as follows:
 - (1) Revise the Woodland Conservation Worksheet to add 3.05 acres of off-site woodland credits.
 - (2) Update any number changes that occur after conservation plan revisions.
 - (3) Update the revision blocks.
 - c. Submit a geotechnical soils investigation report of the proposed retaining walls and building areas where significant grading is proposed.
 - d. Submit a copy of the approved stormwater management concept letter and plan associated with this site, and the facilities shall be correctly reflected on the CSP and TCP1.
2. At time of preliminary plan of subdivision (PPS), the applicant shall:
- a. Provide a vertical grade plan along the length of the main access roadway. In consideration of the varying grades on this site, this plan shall be reviewed for the purpose of determining where bicycle lanes are needed to ensure safe and efficient traffic flow for vehicles and bicycles.
 - b. Provide a standard sidewalk along the west side of the main access roadway (Bald Eagle Drive). Notwithstanding, the design and feasibility of the sidewalk along the west side of the main access road can be evaluated as part of the PPS or detailed site plan.
 - c. Submit a Phase 1 noise study. The noise study shall define the unmitigated and mitigated 65 dBA Ldn noise contour on the subject property and identify any impacted residential lots or parcels that need further noise mitigation.
3. At the time of detailed site plan, the applicant shall:
- a. Submit a list of sustainable site and green building techniques that will be used in this development.
 - b. Utilize various design techniques, including in building massing and volume, finish materials and architectural vocabulary, in the design of all western elevations of the proposed buildings, plus landscaping treatments along the eastern boundary areas, to minimize visual impact on the existing single-family detached residences.
 - c. Conduct Phase III archeological investigations on the brick-lined well and in the location of a possible burial ground associated with the Butler House Historic site, (76A-014). The applicant's consultant archeologist shall also examine the areas below and around the

ruins of the Butler House and in the vicinity of the house foundation to determine if significant intact archeological deposits or features are present.

- d. Give special attention to the scale, mass, proportion, materials, architecture, lighting, and landscaping of any new construction within the viewshed of the Mount Welby Historic Site (76A-013).
 - e. Develop a comprehensive plan for permanently commemorating the history and significance of the property. These commemorative measures may include, but not be limited to, narrative and commemorative signage, web-based educational materials, and/or the potential reconstruction of the Butler House, in whole or in part, as means of telling the unique story of the property. The location, character, and wording of any signage or commemorative features and any other educational or public outreach measures shall be reviewed by the Historic Preservation Commission and approved by Historic Preservation staff. The comprehensive plan shall include the timing for installation and/or launch for the commemorative measures.
4. Prior to approval of any grading permit, the applicant shall provide a final report detailing the Phase III archeological investigations and ensure that all artifacts are made available for curation at the Maryland Archaeological Conservation Laboratory in Calvert County, Maryland.

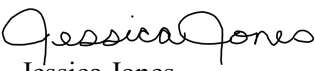
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

* * * * *

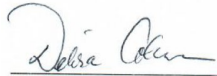
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Geraldo, seconded by Commissioner Doerner, with Commissioners Geraldo, Doerner, and Shapiro voting in favor of the motion, with Commissioner Bailey temporarily absent, and with Commissioner Washington absent at its regular meeting held on Thursday, May 26, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of June 2022.

Peter A. Shapiro
Chairman


By Jessica Jones
Planning Board Administrator

PAS:JJ:HZ:rpg



Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel

Dated 6/9/22

R E S O L U T I O N

WHEREAS, Harbor View Development LLC is the owner of a 20.12-acre parcel of land known as Lots 63–91, Block 122; Lots 13–24, Block 123; Lots 8-14, Block 124; rights-of-way of Chippewa Drive, Crow Way, and portions of Bald Eagle Drive of the Forest Heights Subdivision; and Parcels 26, 27, 32, 33, 35, 36, and 37, said property being in the 12th Election District of Prince George’s County, Maryland, and being zoned Residential, Multifamily-48 (RMF-48) and is partially subject to the Intense Development Overlay (I-D-O) Zone associated with the Chesapeake Bay Critical Area (CBCA); and

WHEREAS, on May 24, 2023, Harbor View Development LLC filed an application for approval of a Preliminary Plan of Subdivision for 19 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-22060 for National View 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 July 27, 2023; 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, pursuant to Section 27-1704(b) of the Zoning Ordinance, subsequent subdivision applications for property subject to a valid conceptual site plan approved under the prior Zoning Ordinance may proceed to 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 July 27, 2023, 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 TCP1-009-2022-01, and APPROVED Preliminary Plan of Subdivision 4-22060, including a Variation from Section 24-128(b)(12), for 19 parcels, with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised, as follows:
 - a. Revise General Note 2 to specify that Lots 61–91 are in Block 122; add Lots 13–24, Block 123, and Lots 8–14, Block 124; and show the plat recording reference for all of the existing lots (Plat Book WWW 28 page 5).
 - b. Revise General Note 11 to include a calculation for the floor area ratio, rather than just the resulting value.
 - c. Revise General Note 14 to state that the site is in the Residential, Multifamily-48 (RMF-48) Zone, but is being reviewed according to the standards of the prior Mixed Use-Transportation Oriented (M-X-T) Zone, and specify the existing use as vacant.
 - d. Revise General Note 26 to state that the associated Type 1 tree conservation plan is TCP1-009-2022-01.
 - e. Add a general note which shows a calculation of the residential density of the development.
 - f. Update the PPS to show the correct mailing address of the applicant.
 - g. Ensure all labels on the PPS are legible and not overlapped by other labels or site features.
 - h. Show all sidewalks within the private street parcels and public rights-of-way, which are proposed with this PPS, with stippling to enhance visibility.
 - i. Label the two on-site debris piles on Parcels 1 and 2 as “to be removed.”
 - j. Show the correct alignment of the stormwater biofilter on Parcel B.
2. Prior to signature approval of the preliminary plan of subdivision (PPS), the Type 1 tree conservation plan shall be revised, as follows:
 - a. Label Building A as containing residential and commercial uses, rather than office and commercial uses.
 - b. Revise the boundaries of Woodland Preservation Area B (as labeled on the tree conservation plan area summary chart), and show the correct alignment of the stormwater biofilter on Parcel B, in order to account for the realignment of Private Road A, between the conceptual site plan and the PPS.
 - c. Revise the labels of the two woodland preservation areas shown on the plan drawings, so

that they match the labels given in the tree conservation plan area summary chart.

3. Development of this site shall be in conformance with Stormwater Management Concept Plan 49501-2021-00 and any subsequent revisions.
4. Prior to approval, the final plat of subdivision shall include:
 - a. A note reflecting the granting of a variation, with the preliminary plan of subdivision, from Section 24-128(b)(12) of the prior Prince George's County Subdivision Regulations, to exclude the granting of a public utility easement (PUE) along a portion of Private Street B, to allow PUEs along Private Streets A and B to be fully or partially within the private right-of-way, and allow all PUEs along private streets to be a minimum of 7 feet wide.
 - b. The granting of public utility easements, along the public and private roadways, in accordance with the preliminary plan of subdivision.
5. In accordance with Section 24-135(b) of the prior 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.
6. 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 detailed site plan (DSP). Timing for construction shall be determined, at the time of DSP.
7. Prior to submission of the final plat of subdivision for any residential parcel, the applicant and the applicant's heirs, successors, and/or assignees shall submit an executed private recreational facilities agreement (RFA) 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 book and page of the RFA shall be noted on the final plat, prior to plat recordation.
8. Prior to approval of each building permit for residential development, 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, in phase with the residential development.
9. The detailed site plan shall determine which open space areas and recreation facilities on the site, if any, will be open to public use. Prior to approval of a final plat for the development, a draft public use easement or covenant for the public use areas shall be reviewed and approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC) and be fully executed. The easement or covenant documents shall set forth the rights, responsibilities, and liabilities of

- the parties and shall include the rights of M-NCPPC. The limits of any easement shall be reflected on the final plat. The easement or covenant shall be recorded in the Prince George's County Land Records, and the Liber/folio of the easement or covenant shall be indicated on the final plat, prior to recordation.
10. The applicant and the applicant's heirs, successors, and/or assignees shall construct the following facilities. The applicant shall show the following facilities on the detailed site plan (DSP), prior to its acceptance:
 - a. A shared-use path or appropriate alternative facility to safely convey pedestrian and bicycle traffic along Private Road A, connecting to Seneca Drive to the north and Bald Eagle Road to the south. The applicant shall work with Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department staff, during the review of the DSP, and shall give consideration to visual and physical compatibility between the shared-use path or alternative facility and the adjacent retaining wall.
 - b. D11-1 Bike Route or R4-11/Bicycles May Use Full Lane signage along Private Road A.
 11. The applicant shall provide a public access easement or covenant allowing public access over the shared-use path connecting Seneca Drive and Bald Eagle Road. Prior to approval of a final plat for the development, a draft public access easement or covenant shall be reviewed and approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC), and be fully executed. The easement or covenant documents shall set forth the rights, responsibilities, and liabilities of the parties and shall include the rights of M-NCPPC. The limits of any easement shall be reflected on the final plat. The easement or covenant shall be recorded in the Prince George's County Land Records, and the Liber/folio of the easement or covenant shall be indicated on the final plat, prior to recordation.
 12. Prior to approval of a final plat, 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 Subdivision Section of the Development Review Division of the Prince George's County Planning Department, 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.
 13. Prior to approval of building permits for development within each detailed site plan (DSP), the applicant and the applicant's heirs, successors, and/or assignees shall convey land, as identified on the approved preliminary plan of subdivision and/or DSP, to the community association. 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.
 - 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.
14. Prior to acceptance of the detailed site plan, the applicant and the applicant's heirs, successors, and/or assignees shall submit a geotechnical investigation report with details of the proposed retaining walls and building areas, where Christiana clay is present and significant grading is proposed. The geotechnical report shall include a slope stability analysis for the proposed conditions and shall be performed, in accordance with Prince George's County Guideline, Techno-Gram 005-2018 and 002-2021.
15. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-009-2022-01). The following note shall be placed on the final plat of subdivision:
- "This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-009-2022-01 or most recent revision), or as modified by the Type 2 Tree Conservation Plan and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland and Wildlife Habitat Conservation Ordinance (WCO). This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."
16. Prior to 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.”

17. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated primary management area, except for any approved impacts, and shall be reviewed by the Environmental Planning Section, prior to approval of the final plat. The following note shall be placed on the plat:

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

18. Prior to acceptance of a detailed site plan, the applicant and the applicant’s heirs, successors, and/or assignees shall submit a Phase 2 noise study, based on the final site layout and building architecture that demonstrates the interior of dwelling units will be mitigated to 45 dBA/Ldn or less and that outdoor activity areas (including, but not limited to, the community gardens and rooftop amenity areas) will be mitigated to 65 dBA/Ldn or less.
19. Prior to approval of a building permit for any residential building identified on the detailed site plan as being affected by noise levels exceeding 65 dBA/Ldn, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permit, stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA/Ldn or less.
20. Any abandoned well or septic system shall be pumped, backfilled, and/or sealed, in accordance with Code of Maryland Regulations 26.04.04, by a licensed well driller or witnessed by a representative of the Prince George’s County Health Department, prior to rough grading permit.
21. Prior to the approval of building permits, the applicant and the applicant’s heirs, successors, and/or assignees shall remove the two on-site debris piles. All solid waste materials (debris/rubbish) observed shall be collected and properly disposed of in a municipal landfill.

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 site is located on the north side of I-95/495 (Capital Beltway), approximately 1,100 feet west of its interchange with MD 210, and adjacent to Bald Eagle Road. The northern portion of the property consists of Lots 63-91, Block 122; Lots 13-24, Block 123; and, Lots 8-14, Block 124, of the Forest Heights Subdivision, Section 16, as well as unimproved public

rights-of-way (ROWS), including Chippewa Drive, Crow Way, and portions of Bald Eagle Drive, all recorded in Plat Book WWW 28 page 5 in the Prince George's County Land Records. The southern portion of the property consists of tax parcels, recorded in County Land Records, known as Parcels 26 and 27 (Liber 41840 folio 235), Parcel 32 (Liber 42799 folio 255), Parcels 33, 35, and 37 (Liber 41808 folio 190), and Parcel 36 (Liber 41808 folio 154). The property totals 20.12 acres.

The property is in the Residential, Multifamily-48 (RMF-48) Zone and is partially subject to the Intense Development Overlay (I-D-O) Zone associated with the Chesapeake Bay Critical Area (CBCA). However, this preliminary plan of subdivision (PPS) was submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1703(b) of the Subdivision Regulations. Under the prior Zoning Ordinance, the site was within the Mixed Use-Transportation Oriented (M-X-T) Zone and the prior version of the I-D-O Zone, which were effective prior to April 1, 2022. The northern portion of the property is within the area of the 2014 *Approved Eastover/Forest Heights/Glassmanor Sector Plan and Sectional Map Amendment* (2014 Sector Plan), while the southern portion of the property is within the area of the 2000 *Approved Master Plan and Sectional Map Amendment for the Heights and Vicinity (Planning Area 76A)* (2000 Master Plan). The northern portion of the property is within the Town of Forest Heights.

The site consists of existing woodlands on hilly terrain, generally sloping downward to the north towards Oxon Creek. The site overlooks a national park known as Oxon Cove Park and Oxon Hill Farm, as well as the Potomac River, and it contains a historic site known as the Butler House. This PPS is for subdivision of the property into 19 parcels, for 71,918 square feet of commercial development and 1,562 multifamily dwelling units, including 362 dwelling units reserved for elderly housing. Of the 19 parcels, Parcels 1-4 are for mixed-use development; Parcels 5-7 are for elderly housing; and Parcels A-L are to be used as private street, alley, and open space parcels, which will be conveyed to a community association.

The PPS is required for the division of land, construction of more than 5,000 square feet of nonresidential floor area, and construction of multiple dwelling units. In accordance with Section 24-1704(b) of the Subdivision Regulations, this PPS is supported by and subject to approved Certificate of Adequacy ADQ-2022-067.

The PPS includes approval of a variation from Section 24-128(b)(12) of the prior Subdivision Regulations, in order to omit a public utility easement (PUE) segment, to locate PUEs within private rights-of-way, and reduce the required width of the PUEs from 10 feet to 7 feet. The variation is discussed further in the Public Utility Easement finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 95 in Grids F-3 and F-4, and within Planning Area 76A. West of the site are Oxon Cove Park and Oxon Hill Farm, located on National Park Service (NPS) land in the Reserved Open Space Zone. North and northeast of the site are single-family detached dwellings within the Town of Forest Heights, located in the Residential, Single-Family-65 Zone. East of the site is woodland in the Agricultural and Preservation Zone, with Bald Eagle Road and the interchange of I-95/495 and MD 210 beyond. South of the site is

I-95/495, with development in the Industrial, Employment (IE) Zone and the edge area of the Regional Transit-Oriented, Low Intensity (RTO-L-E) Zone beyond. The development in the IE Zone consists of a park-and-ride lot, an office building, and the Tanger Outlets Mall, while the development in the RTO-L-E Zone consists of a gas station, parking lots, and the MGM Hotel and Casino (part of National Harbor). The northwest corner of the property and lands further to the northwest are within the IDO Zone associated with the CBCA. This PPS was evaluated according to the standards of the I-D-O Zone of the prior Zoning Ordinance.

4. **Development Data Summary**—The following information relates to the subject PPS and the evaluated development.

| | EXISTING | EVALUATED |
|---------------------------------|--------------------------|---|
| Zones | RMF-48/IDO | M-X-T/I-D-O |
| Use(s) | Vacant | Commercial, multifamily |
| Acreage | 20.12 | 20.12 |
| Parcels | 7 | 19 |
| Lots | 48 | 0 |
| Dwelling Units | 0 | 1,562 |
| Nonresidential Gross Floor Area | 0 sq. ft. | 71,918 sq. ft. |
| Variance | Yes (25-122(b)(1)(G)) | This variance remains in effect, pursuant to CSP-21006 |
| Variation | No | Yes (24-128(b)(12)) |

The subject PPS 4-22060 was accepted for review on May 24, 2023. Pursuant to Section 24-119(d)(2) of the prior Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on June 9, 2023. The variation from Section 24-128(b)(12) was accepted on May 24, 2023, along with the PPS, and also heard at the SDRC meeting on June 9, 2023, as required by Section 24-113(b) of the Subdivision Regulations. Revised plans were received on June 22, 2023, which were used for the analysis contained herein.

5. **Previous Approvals**—Forest Heights Subdivision, Section 16, located within the Town of Forest Heights in the northern part of the site, was platted in April 1956 in Plat Book WWW 28 page 5 of the County Land Records. There is no information available regarding a PPS associated with this plat. The single-family lots on this site were never developed and the site has remained vacant.

The Butler House property, in the southern part of the site, is mostly wooded, but has two historic residences and an existing electric utility ROW. The property is comprised of Parcels 26, 32, 33, 35, 36, and 37, which are not mapped within the Forest Heights municipal boundary. This section contains the Butler House (PG:76A-014/National Register), a Prince George’s County historic site that was designated in 1981 and listed in the National Register of Historic Places in March 2005. The Butler House property is adjacent to Mount Welby (PG:76A-013/National

Register), also a Prince George’s County historic site (designated in 1981), located within the adjacent national park. The Oxon Hill Farm property was listed in the National Register of Historic Places in September 2003. At least four outbuildings were located on the subject property, from approximately 1965 until 1998 when the outbuildings were demolished.

On October 26, 2021, the Prince George’s County District Council approved Zoning Map Amendment A-10055 (via Zoning Ordinance No. 6-2021) to rezone the subject site from the One-Family Detached Residential (R-55) and Rural Residential (R-R) Zones to the M-X-T Zone, with five conditions. The conditions pertain to the conceptual site plan (CSP) and detailed site plan (DSP) for the subject property, and are not applicable to this PPS.

On May 26, 2022, the Prince George’s County Planning Board approved CSP-21004 (PGCPB Resolution No. 2022-65) for the subject site. The CSP approved up to 289,000 square feet of office and commercial development and a range of 1,465 to 1,870 multifamily dwelling units, including up to 485 units reserved for elderly housing. The development evaluated with this PPS is within that approved under the CSP. CSP-21004 was approved subject to four conditions, of which Condition 2 is applicable to this PPS. Condition 2 has three Subconditions 2(a) through 2(c); Conditions 2(a) and 2(b) pertain to on-site bicycle and pedestrian facilities and are addressed in the Transportation finding of this resolution, and Condition 2(c) pertains to a Phase 1 noise study and is addressed in the Noise finding of this resolution.

A Conservation Plan, CP-21006, was approved alongside the CSP for the portion of the property which is in the I-D-O Zone, in the CBCA. The CP was approved by the Planning Board on May 26, 2022 (PGCPB Resolution No. 2022-64), subject to one condition which is not applicable to this PPS. The CP preserves the area of the site within the I-D-O Zone as open space. The area is to contain a 12-foot-wide shared-use path, a stormwater management (SWM) facility, existing utility easements, utility connections, and a picnic pavilion.

6. **Community Planning**—The 2014 *Plan Prince George’s 2035 Approved General Plan* (Plan 2035), and conformance with the 2014 Sector Plan and the 2000 Master Plan are evaluated, as follows:

Plan 2035

Plan 2035 places this site within the Established Communities policy area. Plan 2035 describes Established Communities as areas “appropriate for context-sensitive infill and low-to-medium density development. Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met” (page 20).

2014 Sector Plan and 2000 Master Plan

The 2000 Master Plan does not make a specific future land use recommendation for the southern part of the property. However, it does recommend that infill development be compatible with the low-density character of surrounding neighborhoods (page 13). The 2014 Sector Plan also does not make a specific future land use recommendation, but includes the northern portion of the

property in Focus Area 5, Town of Forest Heights (page 55). Unlike the other focus areas, no recommendations are made to change the current land use. This indicates that the area's existing land use, described as dense single-family housing, should remain the same (page 12). In addition, the sector plan "proposes completing sidewalks on each side of the streets of Forest Heights and implementing a complete streets program" (page 55).

Sectional Map Amendment/Zoning

The District Council approved A-10055 on October 26, 2021, rezoning the property to the M-X-T Zone. On November 29, 2021, the District Council approved CR-136-2021, the Countywide Sectional Map Amendment, which reclassified the subject property from the M-X-T Zone to the RMF-48 Zone. However, this PPS is reviewed according to the prior M-X-T zoning.

According to Plan 2035, all planning documents which were duly adopted and approved, prior to the date of adoption of Plan 2035, remain in full force and effect, except for the designation of tiers, corridors, and centers, until those plans are revised or superseded. Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, a PPS must conform to the area master plan, unless events have occurred to render the relevant recommendations no longer appropriate, or the District Council has not imposed the recommended zoning. Pursuant to Section 24-121(a)(5), this PPS is not required to conform to the land use recommendations of either the 2014 Sector Plan or the 2000 Master Plan because the District Council has approved A-10055, which rezoned the property to M-X-T. The rezoning rendered the relevant land use recommendations, within the 2000 Master Plan and 2014 Sector Plan, no longer applicable. Instead, those uses allowed, in accordance with the M-X-T Zone, are permitted.

7. **Stormwater Management**—An application for a major subdivision must include an approved stormwater management (SWM) concept plan, or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. A SWM Concept (49501-2021-00) approval letter and associated plan were submitted with the PPS for this site. The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) issued the approval on August 31, 2022. The SWM concept plan shows that stormwater will be directed into 18 box bioretention facilities and six storm filters. A fee of \$351,770 is required, in lieu of providing on-site attenuation and quality control measures.

No further information is required, at this time, regarding SWM with this PPS. Development of the site, in conformance with the SWM concept approval and any subsequent revisions, to ensure that no on-site or downstream flooding occurs, satisfies the requirements of Section 24-130 of the prior Subdivision Regulations.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of the 2014 Sector Plan; the 2000 Master Plan; the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*; the 2017 *Land Preservation, Parks and Recreation Plan for Prince George's County*; and Sections 24-134 and 24-135 of the prior Subdivision Regulations, as they pertain to public parks and recreation and facilities.

The proposed development aligns with the intention of both the 2014 Sector Plan and the 2000 Master Plan to improve upon the existing neighborhood and community parks, while providing enhanced facilities to the community.

The 2014 Sector Plan emphasizes the need to build upon existing pathways and complete the trail network in the area. The PPS shows a 12-foot-wide pedestrian and bike trail through the northern part of the property, which will connect to Seneca Drive within the existing Forest Heights community. Seneca Drive connects with Huron Drive, along which is Bell Acres Park which, in turn, provides a connection to the Oxon Run Trail. Pedestrian-friendly crosswalks are also proposed at the entrance to the development on Bald Eagle Road, with connections to the existing trail network at Oxon Hill Farm and Oxon Cove Park. These sidewalks will also allow for a connection over the Capital Beltway to National Harbor, via the Bald Eagle Road bridge.

The 2000 Master Plan recommends (page 119) the acquisition of a 10-acre parcel on a portion of the applicant's property near the historic Butler House (76A-014). The plan recommends acquisition for passive recreational use. The Prince George's County Department of Parks and Recreation has not had an opportunity to purchase this property, as recommended. However, the applicant is proposing an interpretive exhibit of the historic Butler House and the creation of rooftop gardens as part of the development plan, and these site features will provide opportunities for passive recreation uses, which meets the intent of the master plan recommendation.

The subject property is bordered on its western edge by federal parkland managed by the NPS, known as Oxon Cove Park and Oxon Hill Farm. The property is also approximately 0.5 mile south of Bell Acres Park, which is developed with a multi-use field with softball, football, and soccer overlays; a softball diamond; an outdoor tennis court; a full basketball court; a playground; a picnic area; and a natural surface trail. Other developed parks nearby include the Forest Heights Park, approximately 0.5 mile east of the development site, improved with a basketball court, a picnic area, a playground, and an open playfield; the Birchwood City Park, approximately one mile to the east, containing a park building, ballfields, a playground, and picnic areas; and the Glassmanor Community Center, approximately one mile northeast of the subject site. The development is also approximately 1.9 miles northwest of the Southern Regional Technology and Recreation Complex, which serves as the closest multigenerational facility to the area, and it is approximately 0.9 mile north of Oxon Hill Manor. The existing sidewalk, that runs along the property frontage at Oxon Hill Manor, has a direct connection to the Woodrow Wilson Bridge Trail and National Harbor. A segment of the Oxon Hill Farm Trail is adjacent to Bell Acres Park. Funding was approved in the FY21–FY26 County Improvement Plan for rehabilitation and an extension of the Oxon Run Trail, in this location. The Potomac Heritage Trail also connects to the Oxon Hill Farm Trail crossing the Capital Beltway and heading south along Oxon Hill Road.

Sections 24-134 and 24-135 relate to mandatory dedication of parkland, and provide for the dedication of land, the payment of a fee-in-lieu, and/or the provision of private on-site recreational facilities to serve the recreational needs of a development. Based on the proposed density of the subject development, 15 percent of the net residential lot area could be required to be dedicated to the Maryland-National Capital Park and Planning Commission (M-NCPPC) for public parks, which equates to 2.15 acres for public parklands. The subject property is, however,

not adjacent to or contiguous with any property currently owned by M-NCPPC. The recreational guidelines for Prince George's County also set standards based on population. The proposed development would generate approximately 3,749 additional people in the local community, and the conveyance of 2.15 acres of dedicated land would not be sufficient to provide for the types of active recreational activities needed for these new residents. Based on the projected population of the development, the typical recreational needs include outdoor sitting and eating areas, playgrounds, fitness areas, open play areas, ball fields, and basketball and tennis courts.

Due to physical constraints and the layout of the property, the current design does not include any land conveyance. The applicant will, instead, provide on-site recreation facilities to meet the parkland dedication requirement, which may be approved by the Planning Board in place of parkland dedication, per Section 24-135. The applicant provided a Recreational Facilities Concepts exhibit (incorporated by reference) that illustrates possible locations for on-site outdoor and indoor community amenities, some of which would qualify as recreational facilities to meet the mandatory parkland dedication requirement. Amenities cited include community gardens, the Butler House commemorative historic exhibit, a pocket park, terraced green space, courtyards with terraced seating, three observatory viewing platforms (included in Buildings A, B, and C), and seven fitness centers (included in Buildings B, C, D, E, F, and G). Amenities specifically cited on the conceptual recreational facilities agreement (RFA) worksheet (included with the exhibit) include a dog park, a 12-foot-wide pedestrian and bike trail, a picnic pavilion, furnished urban retail plazas, a fitness center in Building A, and swimming pools in Buildings B and C. It is noted that, at the time of DSP, the list of facilities proposed to meet the mandatory dedication requirement will be further evaluated to ensure all of them qualify as recreation facilities.

Given the site's proximity and connectivity to Forest Heights and National Harbor, the on-site amenities and/or recreational facilities proposed to meet the parkland dedication requirement should be public facing, in order to provide opportunities to promote community cohesion, economic development, and health and wellness. Specifically, the community gardens, the Butler House commemorative historic exhibit, additional seating, and water stations in the plazas should be considered for inclusion, as part of the on-site recreation facilities, at the time of DSP, as an alternative to one of the two pools being proposed. Swimming is a seasonal activity and is usually a resident-restricted amenity within developments. The series of open spaces included in the development plan, however, present an opportunity for a linear park within the development: traversing from the northern section of the property, improved with the dog park and picnic area; south to the centrally located retail plazas, green spaces, and pocket park; further south to the Butler House historic exhibit; and thence to the community gardens at the southern section of the property. This linear park would physically connect Forest Heights to National Harbor.

The on-site recreational facilities shall be evaluated by Urban Design staff, per the Parks and Recreation Facilities Guidelines, at the time of DSP review, with an emphasis towards ensuring the open spaces and recreation features on-site are designed in such a way to ensure their cohesion as a linear park. Adjustments to the RFA worksheet will ensure that facilities contributing to the linear park are required to be constructed, rather than left to the applicant's discretion, as would be the case with other amenities exceeding the required value of recreation facilities. The adjustments should also make some improvements to the open spaces (additional

seating and water stations) that ensure they function both as recreational facilities for the residents and as public-facing amenities for visitors. The linear park would meet the 2014 Sector Plan’s goals of ensuring the community “offers a full range of open space and recreational opportunities” (page 18) and ensuring “park space is accessible with links between neighborhoods, schools, commercial areas, other open spaces, and important community resources” (page 23). The linear park would also meet the 2000 Master Plan guidelines that “recreational opportunities should be offered in each community to reflect the recreational preferences and needs of local users” and “recreation areas, neighborhoods and commercial areas should be connected by trails and walkways” (page 121).

The implementation of a linear park and public-facing facilities does not necessarily anticipate that any or all parts of the park would be available for use by the general public, over and above just residents and retail visitors. It may be appropriate, however, to allow public use in certain areas, such as the historic exhibit. The DSP shall determine which of the provided open spaces and recreation areas, if any, will be made available to the public. These areas shall be made, subject to public use easements or provisions of the community association covenant, which will ensure they will be accessible and useable by the public, if appropriate.

Based on the preceding findings, the provision of mandatory dedication of parkland shall be met through the provision of on-site recreational facilities, in accordance with Section 24-135(b) of the Subdivision Regulations..

9. **Site Access and Layout**—The PPS includes seven development parcels, arranged linearly from south to north, with Parcel 1 being the southernmost development parcel and Parcel 7 being the northernmost. Private Street A runs along the west side of the site and acts as the spine road for the development, with Private Streets B and C and Private Alley B extending eastward from it. Private Alley A connects Private Streets B and C and runs along the east side of the site, behind Parcels 1, 2, and 3. All vehicular access to the site is via Bald Eagle Road.

The following table shows the proposed development and access for each parcel:

| Parcel Name | Building Name | Gross Floor Area (Nonresidential) | Dwelling Units | Access From |
|--------------------|----------------------|--|-----------------------|------------------------------------|
| Parcel 1 | Building A | 23,851 sq. ft. | 220 | Private Street A & Private Alley A |
| Parcel 2 | Building B | 14,277 sq. ft. | 360 | Private Street B |
| Parcel 3 | Building C | 17,411 sq. ft. | 410 | Private Streets B & C |
| Parcel 4 | Building D | 16,379 sq. ft. | 210 | Private Street C & Private Alley B |
| Parcel 5 | Building E | N/A | 156 (elderly housing) | Private Alley B |
| Parcel 6 | Building F | N/A | 82 (elderly housing) | Private Street A |
| Parcel 7 | Building G | N/A | 124 (elderly housing) | Private Street A |

The total 71,918 square feet of nonresidential development is further identified in the applicant's traffic study as a 150-student daycare facility of 10,270 square feet, 41,689 square feet of retail space, and 19,959 square feet of other/loading space. These development quantities may be adjusted, at the time of DSP and/or permitting, when specific users are identified.

The PPS shows that all of the development parcels will be accessed by private streets and alleys, pursuant to Section 24-128(b)(15) of the Subdivision Regulations. This section allows the Planning Board to approve private ROWs (including private streets and alleys) for use as part of an integrated shopping center in the M-X-T Zone:

(15) For use as part of an Integrated Shopping Center:

- (A) For land in the C-S-C, M-A-C, M-X-C, or M-X-T Zones, the Planning Board may approve a subdivision with a private right-of-way or easement, provided that:**
- (i) Such right-of-way or easement shall have a minimum right-of-way width of twenty-two (22) feet connecting the lots to a public road;**
 - (ii) Such authorization shall be based on a written finding that the private right-of-way or easement is adequate to serve the extent of the development proposed and shall not result in any adverse impact on the access and use of other lots or parcels within the Integrated Shopping Center; and**
 - (iii) The development shall comply with all other applicable requirements of this Code.**

All of the private streets and alleys have a ROW width of at least 22 feet, and together they connect all the parcels to a public road. The private streets and alleys are adequate to serve the extent of the development proposed and will not result in any adverse impact on the access and use of the parcels.

The development meets the definition of an integrated shopping center given in Section 27-107.01(a)(208) of the Zoning Ordinance. The proposed development will feature at least three retail stores, will be planned under a uniform development scheme, and will be served by common and immediate off-street parking and loading facilities. Though not every parcel within the development will feature retail uses, the parcels featuring only residential uses are still included in the integrated shopping center, by virtue of being part of the same uniform development scheme as the mixed-use parcels. Vehicular access to the residential parcels, at the rear of the development, is exclusively through the mixed-use component at the front of the development.

An unpaved roadway, known as Bald Eagle Road (not to be confused with the paved, modern Bald Eagle Road located east of the property), has historically run along the western edge of the

site. However, this roadway is no longer in use. The Butler House historic site is located along this road. A portion of the roadway was previously formalized as Bald Eagle Drive, when Section 16 of the Forest Heights Subdivision was platted; however, Section 16 was never developed, and the road therefore never improved. The development includes vacating the portion of the existing Bald Eagle Drive ROW located on-site, along with the ROWs for Chippewa Drive and Crow Way, which are similarly unimproved. A vacation petition for these ROWs must be approved, prior to approval of final plats for the development. Private Street A, a distinct new private street which follows the route of the old road, may retain the name Bald Eagle Road or Bald Eagle Drive; however, this has not been confirmed.

10. **Transportation**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the 2014 Sector Plan, the 2000 Master Plan, CSP-21004, and the Subdivision Regulations, to provide the appropriate transportation findings.

Prior Conditions of Approval

The site is subject to CSP-21004, which was approved by the Planning Board on May 26, 2022. Approval of the CSP imposed the following transportation conditions, that are relevant to the subject PPS:

2. **At time of preliminary plan of subdivision (PPS), the applicant shall:**
 - a. **Provide a vertical grade plan along the length of the main access roadway. In consideration of the varying grades on this site, this plan shall be reviewed for the purpose of determining where bicycle lanes are needed to ensure safe and efficient traffic flow for vehicles and bicycles.**
 - b. **Provide a standard sidewalk along the west side of the main access roadway (Bald Eagle Drive). Notwithstanding, the design and feasibility of the sidewalk along the west side of the main access road can be evaluated as part of the PPS or detailed site plan.**

The applicant provided a vertical grade plan, as required, and it shows a bicycle lane, instead of a standard sidewalk along the west side of Private Street A. Considering the recommendations of the applicable sector plan, master plan, and the MPOT's planned trail system, a shared-use path should be provided along the west side of Private Road A, to replace the sidewalk conditioned in CSP-21004, as further discussed below.

Master Plan Conformance

Master Plan Right-of-Way

The subject site has frontage on Bald Eagle Road. No ROW dedication is needed with this PPS.

Master Plan Pedestrian and Bike Facilities

The MPOT includes a planned natural surface trail along the route of the historic Bald Eagle Road. The MPOT also provides policy guidance regarding multimodal transportation and the

Complete Streets element, which recommends how to accommodate infrastructure for people walking and bicycling. The MPOT includes the following policies that relate to the subject development:

Policy 1: Provide standard sidewalks along both sides 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 3: Small area plans within the Developed and Developing Tiers should identify sidewalk retrofit opportunities in order to provide safe routes to school, pedestrian access to mass transit, and more walkable communities.

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.

Neither the 2000 Master Plan nor the 2014 Sector Plan, which apply to this development, have additional planned pedestrian or bicycle facilities which affect the subject site. However, the plans make the following recommendations regarding the accommodation of pedestrian and bicycle facilities.

The 2014 Sector Plan includes the following goals relating to connectivity and street infrastructure (page 21):

- **Include pedestrian infrastructure such as sidewalks, crosswalks including pedestrian/bicycle refuge islands and raised crosswalks or speed tables, accessible pedestrian signals, to include audible cues for people with low vision and push buttons reachable by wheelchair users, and sidewalk curb extensions.**
- **Incorporate traffic calming measures to lower driving speeds and define the edges of vehicle travel lane, incorporating road diets, center medians, shorter curb corner radii, and eliminating free-flow right-turn lanes, street trees, planter strips, and ground cover.**
- **Provide bicycle accommodations, such as dedicated bicycle lanes, cycle tracks, side paths, or wide street shoulders.**

- **Develop a comprehensive and accessible trail network designed to meet the recreational needs of all trail groups, including equestrians, mountain bikers, pedestrians, and bicyclists.**
- **Incorporate appropriate pedestrian- and transit-oriented features, to the extent practical and feasible, in all new development within the plan area.**
- **Provide adequate pedestrian and bicycle linkages to schools, parks, recreation areas, commercial areas, and employment centers.**
- **Identify sidewalk retrofit opportunities in neighborhoods in order to provide safe routes to school, pedestrian access to mass transit, and more walkable communities.**

The 2014 Sector Plan also discusses proposed trail improvements which are not on-site, but are near it and affect the subject development (page 35):

A critical component of a community improvement plan includes a comprehensive network of pedestrian and bicycle paths to provide alternative connectivity as well as recreational activity choices. This plan makes recommendations to add sidewalks and trails where they are missing or incomplete. Sidewalks should follow public streets and be within public rights of way when possible to maintain ease of access for all residents. Trails are proposed to follow streams and connect recreational land uses. The intention is to build upon existing pathways and to complete the network of trails. There is currently a regional trail system along Oxon Run west of and behind Eastover Shopping Center. This system is part of a National Park Service trail that leads south to the historic Oxon Hill Farm. This system requires a bridge replacement at the tributary below Forest Heights Elementary School that was washed out several years ago.

The District of Columbia is also constructing complete streets trails and bikeways to connect to and through the city. MD 210 connects to the proposed South Capitol Street Trail as well as proposed improved complete streets along Southern Avenue.

The development of a trail is proposed in this plan for the tributary beside Forest Heights Elementary School that is a critical link between Oxon Run and Livingston Avenue and would serve to provide a complete walkway from east and west Forest Heights to Oxon Run. Other trails create connections between parks, Glassmanor Community Center/Park, Forest Heights Neighborhood Park, Oxon Run, and new parks and trails.

The 2000 Master Plan indicates the following guidelines in the Transportation chapter (pages 66-67):

- **Residential streets should provide for convenient, safe movement of traffic into and out of residential areas. Residential streets should be built, or modified where appropriate, to discourage through traffic and commuter parking in those neighborhoods.**
- **Pedestrians and bikers should have convenient, safe and full access to Metrorail and other multimodal transportation facilities in the planning area.**

The 2000 Master Plan also indicates that the goal for trails is “to provide a trail network that provides opportunities for safe and accessible nonmotorized transportation including hiking, biking and horseback riding (where appropriate) that connects communities to transportation hubs, commercial centers, and community attractions including schools, parks, and recreational and cultural assets, while avoiding and minimizing damage to sensitive areas” (page 123). The 2000 Master Plan includes the follow guidelines, in support of this goal in the Trails chapter (pages 127–128):

- **A system of trails and walks for pedestrians, bicyclists, and equestrians should be developed to connect neighborhoods, recreation areas, commercial areas, employment areas, and transit facilities.**
- **Where remaining opportunities exist, bikeways, equestrian, and pedestrian trails should be located as far from conflict with the automobile as possible.**
- **In order to save public funds and make the best use of available land, trails should utilize existing rights-of-way, wherever possible, including those of existing roads, water, sewer and power lines.**
- **As the local road system is expanded and improved, highway designs should incorporate appropriate clearances, grades, and paving to accommodate trails.**
- **Applications for preliminary subdivision plans should show interior trails and proposed connections with the planned trails system.**
- **Trails provided privately within subdivisions shall be encouraged to connect with the planned trails system.**
- **When and where feasible, all trails and sidewalks are to be handicapped accessible.**

The PPS shows a bicycle lane on the west side of Private Street A. The PPS also shows a network of sidewalks along both sides of all new roads inside the property, except Private Street A, where sidewalk is only provided on the east side. Based on the Complete Streets policy, the master plan goals and guidelines indicated above, and the trail system in the area, a publicly available

10-foot-wide shared-use path or an equivalent alternative facility should be provided along the west side of Private Road A, connecting to Seneca Drive and ultimately to Oxon Run Trail to the north, and MD 414 (Oxon Hill Road) via Bald Eagle Road to the south. This shared-use path should be provided, in lieu of the public master-planned natural surface trail recommended by the MPOT for the subject property, in consideration of the property's rezoning for high-density and high-intensity development, and the resulting need for more robust infrastructure to accommodate a high volume of pedestrians and bicyclists. To ensure public access, the shared-use path or alternative facility shall be placed within a public access easement.

The applicant has previously indicated a belief that a sidewalk or shared-use path, located on the west side of Private Street A, is unnecessary because there is no proposed development on the west side of the roadway. However, while the sidewalk on the east side of Private Street A is adequate to serve the proposed development, it is expected to be heavily trafficked with pedestrians accessing the buildings. A shared-use path on the west side of Private Street A, on the other hand, would allow pedestrians and cyclists on the path to bypass the National View development, avoiding conflicts with pedestrians traveling on the east sidewalk. This would ensure the path serves its purpose as a master-planned trail, which is part of the wider trail network in the area, allowing regional connectivity. Access between the sidewalk on the east side of the street and the shared-use path on the west side of the street could be provided at appropriate crossings. The shared-use path would also allow for two-way bicycle traffic, whereas the proposed bicycle lane only allows for one-way traffic; the shared-use path may, therefore, replace the bicycle lane. The shared-use path shall be accompanied by D11-1 Bike Route or R4-11/ Bicycles May Use Full Lane signage on Private Road A itself, since a 10-foot-wide shared-use path is on the narrow side of the range of widths recommended by the American Association of State Highway and Transportation Officials (AASHTO) and some bicyclists may, therefore, still choose to ride in the roadway.

The applicant has also indicated engineering and safety concerns regarding a possible sidewalk or shared-use path on the west side of Private Street A. The applicant will be conducting extensive grading and implementing a retaining wall on the west side of the street, in order to support the street's construction. As shown on the applicant's vertical grade plan, the retaining wall will allow the street to be provided below the grade of the adjoining property to the west. The recommended 10-foot-wide shared-use path should be located between the retaining wall and the vehicle travel lanes. This may necessitate shifting the roadbed of Private Road A east by several feet. A 10-foot-wide shared-use path is the preferred facility for ensuring regional bicycle and pedestrian traffic is safely separated from local pedestrian traffic accessing the development. However, given the concerns raised by the applicant, the applicant shall work with staff, at the time of DSP, to evaluate if an alternative facility would more safely convey pedestrian and bicycle traffic along Private Road A. The engineering and design of the retaining wall, the bicycle and pedestrian facility, and street shall be evaluated together, at the time of DSP, in order to determine how engineering and safety concerns regarding the grading and retaining wall should be addressed. Consideration shall also be given to the physical and visual compatibility of the facility and retaining wall.

All other proposed pedestrian and bicycle facilities will be further evaluated with the DSP.

Based on the findings presented above, multimodal transportation facilities will exist to serve the subdivision, as required under Subtitle 24 of the Prince George's County Code, and will conform to the MPOT, the 2000 Master Plan, and the 2014 Sector Plan.

11. **Public Facilities**—This PPS was reviewed for conformance to the 2014 Sector Plan and the 2000 Master Plan, in accordance with Section 24-121(a)(5). Both documents contain a public facilities discussion. The primary goals for public facilities in the plans are, as follows:

2014 Sector Plan

- **This plan recommends public facilities that support growth and contribute to a livable and walkable environment that makes the sector plan area a desirable place to live, work, and play for existing and future residents, employees, and visitors. This plan strives to integrate public facilities into mixed-use buildings, when possible, recommend and support partnerships and cost sharing with religious and other non-profit organizations in the community, and address county financing responsibilities. (page 73)**

2000 Master Plan

- **To provide needed public infrastructure and services - including schools, libraries, police, fire and rescue, and health facilities and services - within Planning Area 76A in a timely manner and with attention given to the needs of specific user groups. (page 99)**

The proposed development will not impede achievement of the above-referenced goals or their associated recommendations. The analysis completed with ADQ-2022-067 showed that, pursuant to adopted tests and standards, public safety facilities are adequate to serve the proposed development. There are no police, fire and emergency medical service facilities, public schools, parks, or libraries proposed on the subject property.

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, however, none of its recommendations affect the subject site.

Section 24-122.01(b)(1), of the prior Subdivision Regulations, states that the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval. The 2018 *Water and Sewer Plan* placed this property in water and sewer Category 3, Community System. Category 3 comprises all developed land (platted or built) on public water and sewer, and undeveloped land with a valid PPS approved for public water and sewer. In addition, the property is within Tier 1 of the Sustainable Growth Act. Tier 1 includes those properties served by public sewerage systems.

12. **Public Utility Easement**—In accordance with Section 24-122(a), 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 ROWs. The subject property has frontage on two public ROWs, including Bald Eagle Road at the southern end of the property and the off-site portion of Bald Eagle Drive at the northwestern end of the property. The required PUEs are provided at these two locations. In addition, Section 24-128(b)(12) requires that all private streets have a 10-foot-wide PUE along at least one side of the ROW. The applicant is proposing PUEs along one side of each of the Private Streets, A, B, and C. However, these PUEs are a minimum of 7 feet wide. The PUEs along Private Streets A and B are located fully or partially within the private ROW, and the PUE along Private Street B does not extend the full length of the street. These proposed conditions require a variation from Section 24-128(b)(12), discussed below, in order to be approved.

Variation from Section 24-128(b)(12)

Section 24-113 sets forth the required criteria for approval of a variation, as follows:

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

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

The granting of the variation will not be injurious to other property because PUEs will not need to be routed through the subject site to serve any other properties. The PUEs serving the site originate on Bald Eagle Road, and extend as far north as the northernmost development parcel (Parcel 7), but not as far north as the residential lots in the Town of Forest Heights. Public utilities are already in place to serve the abutting residential area, and so there is no need for an extension of the PUEs to the existing development. The PUEs are proposed exclusively to serve the subject property and have no need to serve surrounding properties.

The granting of the variation will also not be detrimental to the public safety, health, or welfare. Neither the elimination of a short segment of PUE along Private Street B nor the location of PUEs within the private ROWs will impact the development's ability to serve the development parcels with public utilities. The reduction of the PUEs from 10 feet wide to 7 feet wide will also not impact the PUEs' ability to contain all utility lines necessary to serve the development. The applicant does not propose serving the property with natural gas, due to health and environmental concerns. However, if it does become necessary to serve the development with natural gas in the future, a 7-foot-wide PUE is sufficient to contain parallel gas and electric lines with the necessary lateral separation, so long as the electrical line is placed within a conduit. The applicant stated that the electrical lines within the development's PUEs will be within conduits.

- (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 request is based are unique to the site. The site features a hilly topography and a narrow shape, both of which limit which portions of the site can be developed with roads, buildings, and other structures. A compact development scheme is needed, in order to make the site developable, which necessitates that the utilities serving the site be given a compact design, as well. Such a compact design is appropriate, given the M-X-T zoning of the site, which anticipates a high density and intensity of uses. Providing the PUEs at 7 feet wide and locating the PUEs within the ROW, will reduce their impact on other needed site features. Eliminating a section of PUE along Private Street B, where it is not needed, also reduces the impact of that PUE.

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

The approval of a variation from Section 24-128(b)(12) is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. Further, this PPS and variation request were referred to the affected public utility companies, and none have opposed the variation request. There are no other known laws, ordinances, or regulations that would be violated by this request.

- (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 strict letter of these regulations is carried out;**

As stated above, the property has a particular shape and topographical conditions which make developing the site challenging, limiting the areas of the site which can be developed and necessitating a compact development scheme. If the strict letter of these regulations is carried out, a particular hardship to the owner could result, as the developer may need to displace other site features, including buildings, SWM features, stormdrains, and driveways, in order to accommodate wider PUEs, PUEs on the development parcels, or a PUE along the remaining length of Private Street B. Such features may not be able to be displaced without seriously impacting the applicant's ability to provide a compact development scheme, which is appropriate to this unique site.

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

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

The site is unique to the surrounding properties, and the variation request is supported by the required findings. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, but instead will result in a better outcome than could be achieved through strict compliance with the Subdivision Regulations. Therefore, the variation from Section 24-128(b)(12), to reduce the required width of the PUEs along the private streets, from 10 feet to 7 feet; to allow for full or partial placement of the PUE within the private ROW along Private Streets A and B; and to eliminate a segment of PUE along Private Street B is approved.

It is noted that, due to the compact nature of the development proposed on the site, most of the PUEs will be located underneath sidewalks or other hardscape areas, rather than in grass areas. The placement and construction of the public utilities shall be closely coordinated with the utility companies, to ensure proper maintenance can be performed on the utilities once they are covered over with hard surfaces.

13. **Historic**—The subject PPS was referred to the Historic Preservation Commission (HPC), which reviewed the PPS at its meeting on July 18, 2023, and voted 5-0 to recommend to the Planning Board approval of the PPS, with no new conditions. HPC forwarded the following findings:

Historic Preservation

1. The subject property contains the Butler House (76A-014), designated as a Prince George's County historic site in 1981, and listed in the National Register of Historic

Places in March 2005. The subject property is adjacent to Mount Welby (76A-013), also a Prince George's County historic site (designated in 1981), that is owned by the National Park Service and located within the Oxon Cove Farm. The Oxon Cove Farm property was listed in the National Register of Historic Places in September 2003.

2. The Butler House is a three-bay, two-and-one-half-story wood frame and log dwelling with a steeply pitched side-gable roof and a large, shed addition. It stands on a triangular piece of land between Forest Heights, the Capital Beltway, and the Oxon Hill Children's Farm/Oxon Cove Farm in the Oxon Hill vicinity. The Butler House is significant for its association with the themes "African American experience, 1660–1865" and "The Freedmen's Bureau, 1865–1872", as set forth in the Multiple Property Documentation for African American Historic Resources in Prince George's County, Maryland. Henry Alexander Butler, a free African American from Charles County, moved with his family to the property around 1853, and completed construction of the house. The property had been continuously associated with the Butler family since that time, and until its recent sale to the applicant for the subject application (Prince George's County Deed Records, Liber 41808 page 190).

The Butler House, now in ruinous condition, and its associated property are nevertheless rare surviving examples of a documented pre-Civil War landholding/farmstead inhabited by a free African American family. Until recently, the house was covered in cast stone veneer, although wood lap siding was visible on the gable ends. The steeply pitched, side-gable roof was covered in metal panels and wood shake. The main entry was in the south bay of the west (front) elevation and had a mid-20th century, half-glass door. The window openings contained mid-20th century metal sash. A large, one-and-one-half-story shed addition containing a kitchen extended from the north gable end. A parged brick chimney rose between the north gable end and the shed addition. A one-story screen porch was added to the east elevation.

According to Butler family oral history, the Butler house began in 1851, as a post office. Henry Alexander Butler, a free African American man from Charles County, moved with his family to the property in 1853 and completed construction of the house. The Butler family possesses receipts for taxes paid on the property by Henry Butler in 1859 and 1860. However, the property was not legally deeded to Butler until 1873. The Butlers turned their property into a small farm that included a chicken house, meat house, barns, and other agricultural buildings. The Butler House faced the main road from the District of Columbia through Prince George's County. During the Civil War, Union officers are said to have stopped at the house when traveling through the area. Family photographs indicate that the Butlers lived a comfortable, middle-class life. They also enjoyed high status in the African American community. Henry Butler became a Reconstruction-era community leader, serving as trustee of the Freedmen's Bureau school near Oxon Hill. The Butlers associated with prominent African American Washingtonians including the first African American priest and a Mr. Lewis, master barber at the United States Capitol.

The 1938 aerial photographs show another house to the south of the Butler House, which was demolished between 1984 and 1993. A third Cape Cod style house to the south of the second house was built on the Butler property in the 1940s. That house is still standing in ruinous condition. The property remained with the Butler family until it was sold to Harbor View Development, LLC in 2019. The property also holds potential to yield information about African American material culture. The Butler House meets Criterion A for listing in the National Register of Historic Places, as it is associated with events that have made a significant contribution to the broad patterns of history.

3. The northern portion of the subject property was owned by several other African American families, including the Hattons and the Proctors. Henry Hatton acquired 21 acres of Mt. Welby from Joseph H. Bowling on January 9, 1868. Hatton had a blacksmith shop in Oxon Hill. This tract was to the north and west of the Butler property. Two of Hatton's sons, Henry and George W. Hatton, joined the United States Colored Troops during the Civil War. The 1860 Census shows the Butlers, Hattons, and Proctors residing near one another. The Hattons and Butlers continued to reside near each other through the 1880s. The 1880 Census shows Henry Hatton's daughter, Sarah Gray, her husband Ned Gray, and several members of the Proctor family residing between Henry Hatton and Henry Butler. The 1894 Hopkins Map shows the Butler House and four houses owned by Hattons and Proctors along Bald Eagle Road, which extends through the subject property to the north.

Henry Hatton died in 1896, and in his will he devised portions of his Oxon Hill farm to his children, Martha Harris, Sarah L. Gray, Susanna Ayers, Josephine E. Carroll, and his grandson George C. Hatton. The Gray and Ayers families appear in the 1900, 1910 and 1920 Census records near the Butler family.

Henry A. Butler died in 1904 and devised one acre lots to his children, Amelia, Ellen, Louisa, Sarah's daughter, Charles, William, James, John, and Julia. Several of Henry Butler's children and grandchildren continued to live in the Butler House through the late 20th century. The Hatton property appears to have been abandoned in the 1940s to 1950s when the Forest Heights housing development was platted.

4. The Mount Welby Historic Site/Oxon Cove Farm (76A-013) is adjacent to the subject property. Oxon Cove Farm is an agricultural complex, encompassing 14 buildings and 2 structures, which occupy a rural site in Prince George's County, Maryland, approximately 10 miles south of the District of Columbia, in the vicinity of Oxon Hill, Maryland. The property is currently part of a living farm museum operated by the National Park Service. The resources encompassed in Oxon Cove Park are associated with the property's sequential development as a plantation, an institutional agricultural complex, and a farm museum, during the 19th and 20th centuries. The area surrounding the complex is utilized for pasture, cultivation, and passive recreation. The following historic resources are included within the boundaries of the complex: a brick masonry house; hexagonal wooden-frame outbuilding; brick root cellar; wooden-frame hog house; wooden-frame horse and pony barn; wooden-frame chicken house; steel-frame

implement shed; wooden-frame visitor barn; steel-frame windmill; wooden-frame hay barn; wooden-frame feed building; brick masonry stable; wooden-frame tool shed; wooden-frame "sorghum sirup" shed; and wooden-frame dairy barn, and tile silo.

Oxon Cove Farm is located on the crest of a ridge overlooking the east bank of the Potomac River, north of I-95. The complex is oriented to the south and commands a view of the river valley, including views of the municipal jurisdictions of Alexandria and Arlington, Virginia, and the District of Columbia. The agricultural complex is spatially divided into two areas, defined by the farmstead and farmyard. The dwelling and domestic area dominates the complex from the crest of the ridge; most of the outbuildings lie in a swale east of the dwelling and define the farmyard. Access to the complex is by way of a straight gravel drive that extends approximately 0.2 miles past the dairy barn and the "sorghum sirup" shed to the main complex of outbuildings. This complex consists of the visitor barn, windmill, hay barn, feed building, tool shed, stable, implement shed, and chicken house. The drive continues beyond this area to the farm dwelling, approximately 370 feet to the west. Northwest of the outbuilding core are the horse and pony barn, hog house, and root cellar. Turn-of-the-century farm implements and machines are scattered throughout the park grounds. The buildings that comprise the complex date from the early 19th to the late 20th centuries.

Oxon Cove Farm is a 16-element agricultural complex encompassing 14 buildings, 2 structures, and associated landscape features. The eight contributing elements constitute a recognizable agricultural complex that is significant for its association with mental health care. Buildings included within the complex are associated with two time periods and two principal themes. The time periods are circa 1800–1850, and 1891–1943. The historic themes important to Oxon Cove Farm include agriculture and mental health care. Oxon Cove Farm was among the first agricultural complexes to be used as a therapeutic treatment center for the mentally ill. This innovative approach marked a change in patient therapy for the mentally ill, from warehousing of patients to treatment within an active work atmosphere. Under the ownership of St. Elizabeth's Hospital, Oxon Cove Farm, then known as Godding Croft, provided innovative treatments for the mentally ill within an active agricultural context.

Mount Welby was determined eligible for listing in the National Register under Criterion A for its association with St. Elizabeth's Hospital in the District of Columbia. Mount Welby was used by the hospital as a farm where mental patients could be helped in their treatment by honest labor in fresh air. The farm provided not only beneficial labor for the patients, but also helped to make the hospital self-sufficient by providing food for patients and staff.

The property was also determined eligible under Criterion C for architecture. The house, (Mount Welby), which was constructed in 1811 and substantially altered in the last quarter of the nineteenth century (c. 1891), is an unusual melding of a Federal-period house with the urban row house aesthetic of the Victorian period. In addition, the farmstead encompasses a fairly complete grouping of agricultural buildings dating from

the early to late 19th century and is a rare reminder of the area's agricultural past. The property includes eight buildings: a two-story brick house, a two-story brick barn, a wood framed barn, a granary, root cellar, implement shed, cattle shed, and hexagonal outbuilding, and occupies a prominent site overlooking the Potomac River across from Alexandria, Virginia.

Archeology

5. A Phase I archeology survey was conducted on the subject property in October and November 2019. The fieldwork consisted of a pedestrian survey and shovel testing as the subsurface investigation. The fieldwork was initiated with a pedestrian survey in which several bottle and container glass dumps were identified. Several trash dumps were noted along the ravine to the east of the Butler houses. A large modern scatter of materials around the Butler houses are possibly associated with their abandonment in the late 20th century. Similar modern dumps were identified within the area subdivided for the Forest Heights property and near the residences on Cree Drive. No historic artifact concentrations or scatters were noted on the surface.

Subsurface investigations comprised a shovel test pit (STP) survey with a spacing interval of 50 feet. A total of 196 STPs were laid out in a grid and 20 of those STPs were not excavated. Artifacts were recovered from 55 of the STPs. Most of the positive STPs were concentrated around the two extant Butler houses. An overlying plow zone stratum was noted in most of the STPs and contained artifacts from different time periods that were mixed. Due to the sloping topography, much of the soil had eroded over time.

Artifacts recovered date from the prehistoric to modern periods. Prehistoric artifacts include debitage and non-debitage of local quartz related to tool making. One quartzite fire-cracked rock was recovered. The prehistoric artifacts were not found in any concentration and were scattered over an area 600 feet in length. A site was not designated for this diffuse artifact scatter. Modern material recovered includes artifacts from the architecture, clothing, domestic, fauna, and miscellaneous categories. Most of the historic artifacts recovered date to the 20th century occupation of the property.

Site 18PR1150 – The Butler House

Cultural features identified include a combination well house and adjacent well east of the Butler House. A buried septic tank was partially exposed on the west side of the Butler House. Both features are constructed of concrete and are likely related to the last occupation of the Butler House. An area southwest of the Butler House and east of the entry road was indicated to be a possible burial ground. Several large specimen oak and cedar trees surround the area, along with a line of boxwood bushes and patchy ground cover of periwinkle. A buried impermeable surface was also encountered running along the rear of the 1853 Butler House and extending to the mid-20th century house to the south. This likely represents a driveway that can be seen extending off Bald Eagle Hill Road in aerial photographs.

Three additional features were noted to the north of the Butler House property on land owned by the Hatton and Proctor families. These include a possible trash pit, a large anomalous depression or pit, and a pile of disarticulated field stone. These features possibly represent the remnants of buildings depicted on the 1894 Hopkins Map that were likely occupied from the 1870s to the 1950s.

Two ruinous houses remain on the portion of the property formerly occupied by the Butler family. One is the 1853 Butler House (76A-014), with more modern additions. The house fronts on Bald Eagle Hill Road and collapsed in the early 21st century. The 1940s house is located to the south of the Butler House and is a Cape Cod style building. All windows and doors are missing, and the interior is exposed to the elements.

Site 18PR1151

Site 18PR1151 is in the southern portion of the subject property near the entrance to Oxon Cove Park. It comprised a small artifact scatter containing undecorated whiteware ceramic, a sherd of clear embossed container glass, and a small brick fragment. The artifacts were found in a plow zone context, and no cultural features were identified. No further work was recommended on this site and Historic Preservation staff concurred.

Site 18PR1152

Site 18PR1152 is in the southern portion of the Forest Heights property and to the north of site 18PR1151, on a narrow forest ridge nose fronting Bald Eagle Drive. A 25-foot grid was laid out over the site and included 9 STPs. Only three STPs contained cultural material, comprised of domestic glass, including aqua-tinted embossed bottle glass and clear container glass. The size of the site was estimated to be at least 25 feet north-south by 50 feet east-west. Because of the lack of intact cultural features and buried artifact deposit, no further work was recommended on site 18PR1152.

Site 18PR1153

Site 18PR1153 is located north of site 18PR1152 at the northern extent of the Forest Heights property. It is situated on a very narrow forested ridge nose along Bald Eagle Drive. A grid of shovel test locations was placed over the estimated boundary of the site at a 25-foot spacing increment. A total of 13 shovel test locations were mapped and 11 were excavated. Six of the 11 STPs contained cultural material, encompassing an area measuring 75 feet north-south by 25 feet east-west. Twenty-two artifacts were recovered from the six positive STPs. The artifact assemblage consisted of a wire nail, aqua tinted window glass, clear window glass, a brick fragment, and clear container glass. No cultural or foundation features for a dwelling were noted. No further work was recommended on site 18PR1153.

6. A Phase II archeological evaluation was conducted on sites 18PR1150, 18PR1152, and 18PR1153 between November 2021 and February 2022. Historic research established that the three sites were associated with the Henry Butler and Henry Hatton families, both of whom were free blacks prior to the Civil War. The Butler family owned the southern

10-acre portion of the site containing site 18PR1150 and the Hattons the northern 12-acre portion, associated with sites 18PR1152 and 18PR1153.

The fieldwork consisted of a combination of intensive shovel testing and test unit excavation. Eight test units measuring three square feet were placed within site 18PR1150. Overall, 5,161 artifacts were recovered from the excavation of site 18PR1150. Several above ground features were noted within site 18PR1150, including a cinder block septic tank (F1), a modern concrete well (F2), a historic brick-lined well (F3), and a domestic midden (F4). The first three features were concentrated in the front and side yards of the Butler House, while the midden was located near the northern boundary of the Butler property.

The only intact features that may remain within site 18PR1150 on the Butler property, and that may provide significant information on the Butler family, are a brick-lined well to the northwest of the Butler House and a possible burial ground to the southwest of the house that is covered with periwinkle.

7. In July 2022, a partial Phase III archeological data recovery project was conducted on three potentially significant areas of 18PR1150, the site identified during Phase I investigations of the property conducted during 2020. Fieldwork included trenching, close-interval shovel test pits, and judgmental test units of subsurface features.

Fieldwork in the yard area surrounding the 1853 Butler house consisted of a close-interval STP survey, test unit excavation, and mechanical excavation. A total of 76 STPs at a 15-foot interval were excavated across the study area. Twenty-five STPs yielded cultural material, predominantly to the west and south of the house. Six excavation units and the mechanical removal of a portion of the asphalt road east of the house were completed upon review of the STP data. Eight intact cultural features were identified including: a 19th-century trench, possibly used for drainage, a modern well water utility line, a historic post hole of unknown function, a 19th-century brick lined well, a modern septic tank, a modern well system, a historic brick wall with a landscape or road border function, and a section of an historic cobble road. Cultural material recovered from the excavation included architectural-related materials such as brick, window glass, wire nails, road asphalt, an asphalt shingle and domestic material such as whiteware, yellowware, ironstone, American blue and gray stoneware, redware, bottle glass, a cosmetic container fragment, tumbler and wine glass fragments, a button, and lamp chimney fragments, a blue bead, graphite pencil fragments, a carnival token, and a handful of white ball clay tobacco pipe fragments. The artifacts recovered during excavation suggest an 1840–1900 occupation period, corresponding to Henry Butler’s occupation of the 1853 house. Modern features such as the septic system correspond to later family use of the property during the twentieth century.

The 19th-century brick well located in the front yard (east yard) of the 1853 house was excavated using a combination of mechanical and manual techniques. The western half of the well was removed, and soil was examined. Soils were removed to a depth of

63 inches below ground surface. The feature matrix consisted of fill, containing a mix of modern and historic artifacts including brick, mortar, concrete, wire nails, windowpane glass, whiteware, modern beer bottle glass, plywood and plastic. No artifact deposits were recovered below 59 inches below ground surface, suggesting that the well was periodically cleaned prior to abandonment. No further investigation was recommended. Historic Preservation staff concur that no additional archeological investigations are necessary on Butler Site A, 18PR1150. However, the area below the collapsed house remains to be investigated. Once the house debris is carefully cleared, additional archeological investigations are recommended in that area.

Three 30-foot-long trenches were mechanically excavated in the potential cemetery. Each trench was three feet long, and the trenches were spaced five feet apart from each other. Each trench was excavated mechanically and cleaned by hand to expose any soil anomalies. No soil anomalies were identified during the trench excavation, and nothing could be identified as graves. No further investigation is recommended.

8. The northern portion of the subject property is in the 2014 *Approved Eastover/Forest Heights/Glassmanor Sector Plan* and the southern portion of the property is in the 2000 *Approved Master Plan for The Heights and Vicinity*. The 2014 Sector Plan contains minimal goals and policies related to historic preservation. One goal of the plan generally calls for the “*Protection of unique cultural, historic, and environmental resources.*” (page 111). However, these are not specific to the subject site or applicable to the proposed development. The Butler House and Mount Welby historic sites are located within the 2000 Master Plan. The 2000 Master Plan includes goals and policies related to historic preservation (pages 129–134), and made the following recommendation for the Butler House Historic Site (page 133):

The plan recommends that a program be developed to rehabilitate and reuse the Butler House. The Butler House was designated as a Historic Site in 1981 for its significance as representing the home and farm of a free black family of comfortable means. The home of generations of the Henry Butler family since the Civil War period, it has not been occupied for years and suffers from severe deterioration. The property is proposed for parkland with the underlying residential zone being R-55; the house itself and its immediate setting could be rehabilitated or rebuilt and used as an interpretive center to demonstrate aspects of mid-nineteenth century farm life of free blacks; the surrounding land could be used to reestablish farm gardens/orchard mid-nineteenth century landscape. (If it becomes parkland, along with other passive parkland uses, community gardens could be established on part of the land.)

The project could be set up so that children could experience farm life as part of school classes or scout projects. The interpretation of the mid-nineteenth century farm life of free blacks would round out the County’s farm interpretation: from the plantation economy interpretation

of Montpelier in Laurel or Marietta in Glenn Dale, or interpretation of life of an average farmer in colonial days as at the National Colonial Farm in Accokeek. All other properties associated with African American history in the County date from the late-nineteenth-century or later, with the exception of the Northampton Site, a slave quarter ruins dating from the early nineteenth century.

9. On October 21, 2021, the District Council approved A-10055-C, to rezone the subject property from R-R and R-55 to the M-X-T Zone. Condition 2 is relevant to historic preservation concerns:
- (2) The request will be subject to Conceptual and Detailed Site Plan approval in accordance with the strictures found in Part 3, Division 9 of the Zoning Ordinance (2019 Edition, 2020 Supplement). Additionally, special attention should be given to the development's compatibility with the surrounding area and any restrictions associated with the I-D-O Zone, as well as some appropriate recognition of the historic Butler House property.**

This condition will be addressed at the time of DSP.

10. On May 26, 2022, the Planning Board approved CSP-21004 for the subject property. Prince George's County Planning Board Resolution No. 2022-65 includes the following conditions relevant to historic preservation and archeology concerns:

3. At the time of detailed site plan, the applicant shall:

- c. Conduct Phase III archeological investigations on the brick-lined well and in the location of a possible burial ground associated with the Butler House Historic site, (76A-014). The applicant's consultant archeologist shall also examine the areas below and around the ruins of the Butler House and in the vicinity of the house foundation to determine if significant intact archeological deposits or features are present.**

Phase III investigation of the brick-lined well and in the possible burial ground has been completed and no further work was required on either of those sites. The ruins of the Butler House have not yet been removed and additional archeological investigations will be required in that area once the ruins have been carefully cleared.

- d. Give special attention to the scale, mass, proportion, materials, architecture, lighting, and landscaping of any new construction within the viewshed of the Mount Welby Historic Site (76A-013).**

This condition is still outstanding and will be addressed at the time of DSP.

- e. **Develop a comprehensive plan for permanently commemorating the history and significance of the property. These commemorative measures may include, but not be limited to, narrative and commemorative signage, web-based educational materials, and/or the potential reconstruction of the Butler House, in whole or in part, as means of telling the unique story of the property. The location, character, and wording of any signage or commemorative features and any other educational or public outreach measures shall be reviewed by the Historic Preservation Commission and approved by Historic Preservation staff. The comprehensive plan shall include the timing for installation and/or launch for the commemorative measures.**

This condition is still outstanding and will be addressed at the time of DSP.

4. **Prior to approval of any grading permit, the applicant shall provide a final report detailing the Phase III archeological investigations and ensure that all artifacts are made available for curation at the Maryland Archaeological Conservation Laboratory in Calvert County, Maryland.**

This condition is still outstanding and will be addressed at the time of grading permit.

HPC also forwarded the following conclusions:

1. The Butler House is in ruinous condition. Nevertheless, the applicant will need to apply for a Historic Area Work Permit to demolish and remove the Butler House ruins prior to development. The ruins should be removed in a careful manner to allow for possible archeological investigations of the area below and around the house.
2. To mitigate the loss of the Butler House Historic Site and its historic context, the applicant will be required to develop a comprehensive plan for permanently commemorating the history and significance of the property. These commemorative measures may include, but not be limited to, narrative and commemorative signage, web-based educational materials, and/or the potential reconstruction of the Butler House in whole or in part, as means of telling the unique story of the property.
3. The existing environmental setting of the historic site includes all 2.23 acres that make up Parcel 35. This environmental setting should remain in place throughout the development process and may be reduced by HPC to facilitate development and to aid in the commemoration of the property. HPC does not have the authority to eliminate the

environmental setting in its entirety. The applicant should work with HPC on the ultimate character and location of the environmental setting as part of the interpretive and mitigative measures that will commemorate the Butler House Historic Site, as well as the history of the other African American occupants of the property. The interpretive measures to be developed by the applicant and reviewed by HPC will require approval through the Historic Area Work Permit process if they are located within the existing environmental setting. If they are to be located outside the environmental setting, the applicant will be required to complete those plans and potentially complete the interpretive measures, prior to the potential reduction of the environmental setting.

4. The proposed development will be highly visible from the Mt. Welby Historic Site. Through the DSP process, the applicant should work with Planning Department and Historic Preservation staff to reduce the visibility of proposed construction from the Mt. Welby Historic Site, as well as to address the effects of scale and massing of the development on the adjacent National Park.
 5. Bald Eagle Road, which extends north-south through the subject property, was a main artery of the north-south postal roads running from the New England colonies through New York, Philadelphia, and Baltimore to a point near Bladensburg. The branch that ran to the early settlements in Southern Maryland through the subject property was known as the River Road. During the Civil War, Union troops and their provisions were transported up and down the road and cut it up so badly that a new road had to be built around and bypassing it. The road was then only used to access the Butler, Gray, and Hatton residences. As much of this historic road as possible should be preserved within the development, possibly as a trail, and interpretive measures should discuss the significance of this ancient route.
 6. Due to the lack of intact cultural features and diagnostic artifacts found in the Phase II archeological investigations at sites 18PR1152 and 18PR1153, no further work was recommended on either site. Historic Preservation staff concur with the report's findings and conclusions that no further work is necessary on sites 18PR1152 and 18PR1153. Staff also concur that no additional investigations are necessary on the brick-lined well within site 18PR1151. The applicant's consultant archeologist should examine the areas below the ruins of the Butler House, and in the vicinity of the house foundation, to determine if significant intact archeological deposits or features are present.
14. **Environmental**—The subject PPS was received on May 24, 2023. Environmental comments were provided during the SDRC meeting on June 9, 2023. The following applications and associated plans were previously reviewed for the subject site:

| Development Review Case | Associated TCP(s) | Authority | Status | Action Date | Resolution Number |
|--------------------------------|--------------------------|------------------|---------------|--------------------|--------------------------|
| NRI-184-14 | N/A | Staff | Approved | 8/30/2022 | N/A |
| NRI-146-2019 | N/A | Staff | Approved | 3/25/2000 | N/A |
| A-10055 | N/A | County Council | Approved | 10/21/2021 | Z.O. 06-21 |
| CSP-21004 | TCP1-009-2022 | Planning Board | Approved | 5/26/2022 | 2022-65 |
| CP-21006 | N/A | Planning Board | Approved | 5/26/2022 | 2022-64 |
| 4-22060 | TCP1-009-2022-01 | Planning Board | Approved | 7/27/2023 | 2023-89 |

Grandfathering

The project is subject to the environmental regulations contained in prior Subtitles 24 and 27, and the regulations in current Subtitle 25, that came into effect on September 1, 2010 and February 1, 2012. The portion of the site located in the CBCA is subject to Subtitle 5B.

Site Description

The subject PPS area is 20.12 acres, and approximately 1.73 acres of the site is within the I-D-O Zone of the CBCA. The PPS area is divided into two areas, the Butler Tract (south) and the platted lots in Section 16 of the Forest Heights Subdivision (north).

The southern portion of the site contains no regulated environmental features (REF), but it is adjacent to an extensive ephemeral stream channel and contains specimen trees. This stream was investigated during the natural resources inventory (NRI) review and was determined to be ephemeral. This area is mostly wooded and contains mapped forest interior dwelling species (FIDS) bird habitat. 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 Butler Tract is mostly located within a regulated area, with the southernmost area of the site located in evaluation areas. Parcel 35 of the Butler tract is located within a historic site environmental setting that is associated with the Butler residence (76A-014). The Capital Beltway is adjacent to the southern portion of the site and is identified as a master-planned freeway.

The northern portion of the site does not contain any mapped REF, but contains specimen trees, FIDS habitat, and is entirely wooded. The northwest corner of the site is within the CBCA I-D-O Zone. According to the Green Infrastructure Plan, the platted lot area is entirely within the regulated area. No master-planned roads are mapped adjacent to this northern section of the PPS.

An unimproved road, known as Bald Eagle Drive or Bald Eagle Road, extends through the site north to south, eventually connecting with MD 210. This road provided a historical connection between Oxon Hill and Washington, DC, dating to 1850; however, this roadway is not identified as historic or scenic. Adjoining the property to the west of Bald Eagle Road is the historic setting for the Mount Welby residence (76A-013), the Oxon Cove Park, and the Oxon Hill Farm owned by the NPS. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program (DNR NHP), there are no rare, threatened, or endangered species found to occur on, or in the vicinity of, the PPS area.

Plan 2035

The site is located within Environmental Strategy Area 1 (formerly the Developed Tier) and Environmental Strategy Area 4 (Chesapeake Bay Critical Area), of the Regulated Environmental Protection Areas Map and has a Growth Policy of Established Communities, as designated by Plan 2035.

Environmental Conformance with Applicable Plans

The PPS area is located within two different master plan areas. The north area, within Section 16 of the Forest Heights Subdivision, is located within the 2014 Sector Plan and the south area (Butler Tract) is within the 2000 Master Plan.

The following are the environmental goals and recommendations of both plans and how they impact the PPS area.

2014 Sector Plan, page 23 (North Area)

Recommendation 1: Reduce flooding and personal property damage due to flooding (Forest Heights, Rolph Road, and North Heron Drive).

Rolph Road and North Heron Drive are located north of the subject site. The topography shown on PGAtlas.com indicates the site area draining away from the identified roadways, in a different drainage area. Drainage from the subject site is not expected to cause flood impacts to the above-mentioned roads.

The north area of the site is within Forest Heights, but not within a designated floodplain area. The subject site has an approved SWM concept plan reviewed by DPIE. The concept approval provided no comments pertaining to any on-site floodplain areas.

Recommendation 2: Restore ecological function and environmental diversity in streamways, woodlands, and other natural areas.

The site, as it exists today, is in a natural condition, wooded with no development. There are no REFs located within this subject area.

Any development activity will require the removal of woodland areas. This area is zoned M-X-T, which is intended for high-density projects. The overall PPS net tract area (18.38 acres) has a woodland conservation threshold (WCT) of 2.73 acres (15 percent) and, with the clearing shown on the Type 1 tree conservation plan (TCP1), this results in a woodland conservation requirement of 5.64 acres. The developer is meeting the woodland conservation requirement with 2.60 acres of woodland preservation and 3.05 acres of off-site woodland bank credits. The TCP1 shows preservation of 14 percent of the existing on-site woodland. Replanting woodlands within the development area is difficult, due to the narrow shape of the parcel area and required infrastructure.

Recommendation 3: Maintain open space linkages, reduce gap distances between natural areas, and provide traversable pathways for plant and animal migration.

Currently, the northern part of the property is entirely wooded and is in an area identified as potential FIDS habitat. This area would be considered as an edge habitat because it is not greater than 300 feet from a woodland opening. The PPS area is part of a larger wooded historic setting for the Mount Welby residence (76A-013), the Oxon Cove Park, and the Oxon Hill Farm owned by the NPS. The submitted TCP1 of this master plan area shows that the applicant will maintain the woodlands within the CBCA and a wooded buffer along the rear of the lots on Cree Drive.

Recommendation 4: Reduce and remove impervious cover and increase urban tree canopy.

Presently, there are no impervious surfaces within the northern half of the site. The CBCA portion of the PPS area, as approved with CP-21006, includes only woodland clearing for a picnic pavilion and a shared-use paved trail to access the M-X-T development and Seneca Drive. The area outside the CBCA contains the M-X-T development of buildings, interior roads, SWM structures, and walkways. The woodlands, between the development and the existing residential lots abutting the site, will be preserved and placed in a woodland conservation easement.

Recommendation 5: Incorporate Low Impact Development (LID) stormwater management to restore water quality and ecological function.

A SWM Concept (49501-2021-00) approval letter and associated plan were submitted with the PPS for this site. DPIE issued the approval on August 31, 2022. The current regulations require that environmental site design, which is equivalent to low-impact development, be implemented, to the maximum extent practicable. The SWM in the CBCA, as shown on the concept plan, shows stormwater directed to an underground storage treatment facility and into grass swales. In the M-X-T development area, the SWM concept plan shows stormwater to be directed into box bioretention facilities and storm filters.

Recommendation 6: Encourage property owners to plant trees and other vegetation.

The northern part of the property is entirely wooded, with no open area or structures. The M-X-T development will be comprised of a mix of residential and nonresidential uses allowed by the Zoning Ordinance, to heavily develop the site. The submitted TCP1 shows woodland preservation along the northern and eastern boundary, buffering the existing off-site single-family detached residences. No individual residential lots are shown on the PPS. The overall PPS area has a WCT of 2.73 acres (15 percent) and a woodland conservation requirement of 5.64 acres. The developer is meeting the woodland conservation requirement with 2.60 acres of woodland preservation and 3.05 acres of off-site woodland bank credits.

Recommendation 7: Incorporate “green building” techniques in new and redevelopment construction.

The applicant is encouraged to provide information regarding the use of green building techniques and alternative energy, to be evaluated with future applications.

Recommendation 8: Reduce pollutants such as trash, nitrogen, and phosphorous in streams and the watershed.

The approved NRI, for this portion of the PPS area, did not identify any on-site streams or wetland areas. This master plan area also contains the CBCA area within the I-D-O Zone. The I-D-O area is required to be capable of reducing pollutant loads generated from a developed site to a level at least 10 percent below the loads generated at the same site, prior to development. As part of the SWM concept plan review (49501-2021-00), DPIE reviewed and approved the CBCA portion of the site, to make sure that the proposed SWM techniques reduce the amount of nitrogen and phosphorous released back into the environment from the proposed CBCA development stormwater runoff.

The project area outside the CBCA was reviewed by DPIE, as part of the same SWM Concept (49501-2021-00) approval letter and associated plan. DPIE approved SWM structures, such as bioretention facilities and storm filters, to improve the quality of water released back into the watershed.

2000 Master Plan, pages 111–114 (Butler Tract/South Area)

Goal: To protect and enhance the environmental qualities of the planning area by preserving natural environmental assets as an integral part of the community.

Recommendation 1: Woodland Preservation – The existing woodlands in Natural Reserve Areas must be retained. Other existing woodlands should be retained to the extent possible in order to maintain or increase the current percentage of woodland. Furthermore, the expansion of woodlands through afforestation and reforestation is encouraged in the implementation of the greenways and open space program linkages.

The master plan does not designate any areas on the site as natural reserve area, but does designate a portion of the site as wooded.

This portion of the site contains steep slopes, in several locations. These areas are Sassafras and Croom soils (15–25 percent and 25–40 percent slopes), which are highly erodible soils. One of the areas of steep slopes is adjacent to an ephemeral stream channel. The woodlands are contiguous with woodland on the north portion of the site, as well as woodlands extending west to the Potomac River,

Oxon Run, and the CBCA. The woodlands on-site contribute to the potential FIDS habitat. The only unforested area on-site is the southernmost area of the Butler Tract. This area was cleared of woody vegetation for an electric transmission line that extends from a pole along Bald Eagle Road and crosses the site to the Oxon Hill Farm National Park site to the west.

The submitted TCP1 shows the proposed mixed-use development of residential and commercial buildings, roadways, and infrastructure. This area is zoned M-X-T, which is intended for high-density projects. The subject TCP1 shows woodland preservation adjacent to the existing developed residential lots off Cree Drive, and a woodland area adjacent to the entrance from Bald Eagle Road. No reforestation is shown on the TCP1. The overall net tract area (18.38 acres) has a WCT of 2.73 acres (15 percent) and, with the clearing shown, the woodland conservation requirement is 5.64 acres. The developer will meet the woodland conservation requirement with 2.60 acres of woodland preservation and 3.05 acres of off-site woodland bank credits.

Recommendation 2: The County should pursue efforts to minimize development impacts on contiguous woodland areas adjacent to Henson Creek and the Oxon Run Tributary through land acquisition for parks, where feasible, and through appropriate land use recommendations.

The site is part of a large contiguous vegetated area, associated with FIDS edge habitat and potential FIDS habitat. This site and the site to the west have environmental settings associated with designated historic sites. The wooded parcel to the west is owned by the NPS. The site is near the Oxon Run Tributary, but not immediately adjacent, and the above recommendation to acquire parkland is no longer applicable to the subject property because it has been rezoned to the M-X-T Zone for high-density development. Woodland preservation within the CBCA at the northern end of the property will help minimize the impact of the development on the tributary.

Recommendation 3: Stormwater Management – The County should ensure that stormwater is properly managed, and major streams and detention/retention basins should be monitored for water quality and flow characteristics. The plan recommends the development of five stormwater management ponds as shown on the plan map.

Recommendation 4: Alternative solutions to provide remedial action for on-site stormwater management may be necessary, until such time as the Department of Environmental Resources (DER) implements the proposed potential regional stormwater management ponds in the planning area.

Development of the site will be subject to the current SWM regulations, which require that environmental site design be implemented, to the maximum extent practicable. A SWM Concept (49501-2021-00) approval letter and associated plan were submitted with the PPS. DPIE issued the approval on August 31, 2022. The SWM concept plan shows that stormwater will be directed into 18 box bioretention facilities and six storm filters.

Additional information regarding on-site REF is evaluated in the Environmental Review section below.

Recommendation 5: Noise Attenuation – In areas of 65 dBA (Ldn) or greater, residential development proposals should be reviewed and certified by a professional acoustical engineer stating that the building shell of habitable structures located within a prescribed noise corridor will attenuate ultimate exterior noise level to an interior level not to exceed 45 dBA (Ldn), especially in the AICUZ designated noise corridor.

The proposed M-X-T development is a mix of retail, commercial, and residential uses. This subject property is located adjacent to the Capital Beltway, which is designated as a freeway master-planned roadway. This roadway is regulated for noise, with respect to proposed residential development. A Phase 1 noise study was provided with the PPS application and a Phase 2 noise study shall be provided at the time of DSP; see the Noise finding of this resolution.

Recommendation 6: Air Quality: The County should continue to participate aggressively in metropolitan efforts to prevent further air quality deterioration and should support all available measures to improve local air quality.

Air quality is a regional issue that is currently being addressed by the Metropolitan Council of Governments.

Recommendation 7: Proposed developments should meet stringent standards and guidelines and the potential environmental impacts of human activities should be identified as early as possible in the planning process. The constraints of Natural Reserve and Conditional Reserve Area must be adhered to.

No REF is located on-site, other than steep slopes. The proposed high-density development will grade the site to accommodate the infrastructure and buildings needed for the development proposal. The development will require SWM approval from DPIE and sediment and erosion control approval from the Soil Conservation District.

The site is not in a natural reserve area or conditional reserve area, as described in the master plan, but the site is wooded and contains areas of steep slopes associated with highly erodible soils. The on-site woodland should be preserved or planted, to the fullest extent possible.

Conformance with the Green Infrastructure Plan

The entire site is mapped within the green infrastructure network, as delineated in the Green Infrastructure Plan. The regulated area is mapped along Bald Eagle Drive in the CBCA, and the rest of the site area is mapped as evaluation area. The area of regulated area was approved for impact with CP-21006. The current PPS and revised TCP1 are found to be in general conformance with the Green Infrastructure Plan.

Environmental Review

Area within the Chesapeake Bay Critical Area

The CBCA portion of the site (1.73 acres) is covered by combined NRI-184-14, covering both inside and outside the CBCA. CP-21006 was approved for this area and no new activities are proposed within the CBCA, as part of this PPS.

Area Outside the Chesapeake Bay Critical Area

Natural Resources Inventory/Existing Conditions

The northern and southern portions of the property are subject to separate NRIs. As mentioned above, the northern portion is subject to NRI-184-14 and the southern portion is subject to NRI-146-2019. The site does not contain wetlands, streams, or 100-year floodplain; however, the site does contain steep slopes and specimen trees. There are several debris piles in the area around the Butler House site, including one within an existing swale. The applicant stated that these debris piles would be removed. The TCP1 shows all the required information correctly, in conformance with the NRIs.

Woodland Conservation

The site is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size, and it contains more than 10,000 square feet of existing woodland.

The TCP1 shows the proposed development with buildings, roads, SWM structures, utilities, and woodland preservation areas. Based on the submitted TCP1, the overall site contains a total of 14.65 acres of net tract woodlands. The plan shows a proposal to clear 11.52 acres of on-site woodlands, for a woodland conservation requirement of 5.64 acres. The plan view and woodland conservation worksheet shows 2.60 acres of on-site woodland preservation and 3.05 acres of off-site woodland credits, to meet the woodland requirement. The applicant shall purchase the woodland credits within the Potomac River watershed, before the first permit.

Specimen Trees

Section 25-122(b)(1)(G) of the WCO 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.”

According to the NRI, 30 specimen trees are located outside the CBCA. A variance from Section 25-122(b)(1)(G) was requested, for the removal of 21 specimen trees with CSP-21004. The Planning Board approved the removal of 21 specimen trees, as part of CSP-21004. No additional specimen trees are proposed to be removed with this PPS.

Soils/Unsafe Soils

According to the U.S. Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey, the National View site contains the following soil types: Sassafras-Croom complex, Beltsville silt loam, Sassafras, and Croom soils, and Sassafras sandy loam series. In addition, Christiana complex is in proximity to the site.

The site elevation varies significantly, sloping down toward the north from elevation 196 to elevation 40, as shown on the provided plans. Mass grading and site retaining walls are proposed. A geotechnical report of the subsoil conditions and slope stability, to determine a global stability analysis, was requested with the CSP application. The geotechnical report was provided with the PPS application, and the following comments were provided to the applicant:

“The Factor of Safety of Section B-B’ for the proposed condition is 1.3 (page 147 of the geotechnical report) and is unacceptable. As stated in the geotechnical report, additional global stability analyses will be necessary and submitted at time of the DSP application since geometric configurations and finished floor elevations will be revised, along with retaining wall heights and locations. The geotechnical investigations and the analyses shall be performed in accordance with Prince George’s County Guidelines, Techno-Gram 005-2018 and 002-2021.”

These comments and a final analysis shall be reviewed, at the time of DSP. The slope analysis for the existing conditions was reviewed with this PPS.

Erosion and Sediment Control

The County requires approval of an erosion and sediment control plan. The TCP2 must reflect the ultimate limits of disturbance (LOD), not only for installation of permanent site infrastructure, but also for installation of all temporary infrastructure, including erosion and sediment control measures. A copy of the erosion and sediment control technical plan must be submitted with the TCP2, so that the ultimate LOD for the project can be verified and shown on the TCP2.

Prince George’s County Health Department

This PPS was referred to the Prince George’s County Health Department, which advised that there may be abandoned underground well and/or septic structures that may not have been

backfilled in an acceptable manner, on-site. The Health Department recommended the applicant contact the Division of Environmental Engineering/Policy Program for guidance on how to backfill abandoned well and septic structures.

Based on the foregoing findings, the PPS conforms to the relevant environmental policies of the 2014 Sector Plan, the 2000 Master Plan, the Green Infrastructure Plan, and the relevant environmental requirements of Subtitles 24 and 25.

15. **Urban Design**—The proposed development will be subject to DSP approval, in accordance with the following:

Conformance with the Requirements of the prior Prince George’s County Zoning Ordinance

The PPS is for a mixed-use development consisting of residential and commercial uses. Residential and commercial uses are permitted by-right in the M-X-T Zone, per Section 27-547 of the prior Zoning Ordinance. In addition, this development is required to file a DSP, in accordance with Section 27-546(a) of the prior Zoning Ordinance. Development of the site shall conform with the regulations for development of property in the M-X-T Zone.

Conformance with the applicable requirements of the Zoning Ordinance must be demonstrated, at the time of DSP and building permit review. Applicable requirements can be found in:

- Section 27- 544 regulations for the M-X-T Zone;
- Section 27-547 uses permitted in the M-X-T Zone;
- Part 11 Off-Street Parking and Loading; and
- Part 12 Signs

The site shall also conform to the regulations of the I-D-O Zone, where applicable, through conformance to CP-21006.

Conformance with the 2010 Prince George’s County Landscape Manual

Pursuant to Section 27-124.03 of the prior Zoning Ordinance, the proposed development is subject to the 2010 *Prince George’s County Landscape Manual*. Specifically, Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; and Section 4.9, Sustainable Landscape Requirements, apply to this site. Conformance with the applicable landscaping requirements will be evaluated, at the time of DSP and building permit review.

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. Properties in the RMF-48 Zone are required to provide a minimum of 15 percent of the gross tract area to be covered by tree canopy. Compliance with this requirement will be evaluated at the time of DSP and building permit review.

16. **Noise**—The site is proximate to I-95/495, a freeway, and MD 210, an arterial roadway; both of which are known noise generators which should be evaluated for impacts on residential development. Accordingly, the CSP for this development conditioned that a Phase 1 noise study be provided at the time of PPS (Condition 2(a)). The applicant provided a Phase 1 noise study, dated June 21, 2023, which evaluated noise impact on the development’s proposed buildings and outdoor activity areas, based on noise measurements taken on-site.

The noise study found that the community gardens, located at the southern end of the site, would be exposed to future noise levels greater than 65 dBA/Ldn. The study further found that noise levels will exceed 65 dBA/Ldn upon the upper rooftops of Buildings B and C where, according to the applicant’s Conceptual Recreational Features exhibit, outdoor amenities serving the multifamily units may be located. The noise study also found that residential units, located along the upper portions of Buildings B and C, will be impacted by noise levels above 65 dBA/Ldn. The study did not specifically evaluate noise impacts upon either the residential units within or the recreational amenities on top of Building A, because the study incorrectly stated that Building A would be limited to office and commercial uses. However, given that Building A is closer to I-95/495, than either Building B or C, it should be assumed there will be noise impacts on this building. The noise study did not find any impact on Buildings D, E, or F, or on any other proposed outdoor activity areas.

The Phase 1 noise study states that further analysis is needed to determine the mitigation measures necessary to ensure all outdoor activity areas are exposed to noise levels no greater than 65 dBA/Ldn, and all dwelling units are exposed to interior noise levels no greater than 45 dBA/Ldn. This analysis shall be completed with the DSP, when site details and building architecture are proposed. Prior to acceptance of the DSP, the applicant shall submit a Phase 2 noise study, which evaluates and proposes the necessary noise mitigation measures for the affected dwellings and activity areas.

17. **Town of Forest Heights**— No comments were received from the Town of Forest Heights.
18. **Community Feedback**—At the Planning Board meeting on July 27, 2023, one member of the public spoke in favor of the project, representing Fort Washington Forward. The representative requested information regarding the transportation infrastructure proposed to support the development, and requested a meeting with the applicant. In response, the applicant explained the traffic analysis performed with ADQ-2022-067 and the resulting required road improvements. The applicant confirmed that the traffic study was dated May 9, 2023, and did not reflect reduced traffic counts, as a result of the COVID-19 pandemic or school closures. The applicant also discussed the proposed on-site bicycle and pedestrian facilities and their connections to the wider trail network in the area. The applicant agreed to meet with the representative and their organization.

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 Geraldo, with Commissioners Washington, Geraldo, Doerner, and Shapiro voting in favor of the motion, and with Commissioner Bailey absent at its regular meeting held on Thursday, July 27, 2023, in Upper Marlboro, Maryland.

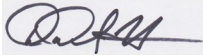
Adopted by the Prince George's County Planning Board this 7th day of September 2023.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:MG:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: August 22, 2023

PLACEHOLDER FOR APPENDIX A-4 - DETAILED SITE PLAN APPROVAL