

R E S O L U T I O N

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

WHEREAS, in consideration of evidence presented at a public hearing on November 9, 2017, regarding Conceptual Site Plan CSP-16005 for Fallen Oak Townhomes, the Planning Board finds:

1. **Request:** The subject conceptual site plan (CSP) approval is for development of 44 townhomes and 9,300 square feet of commercial space.
2. **Development Data Summary:**

	<b>EXISTING</b>	<b>APPROVED</b>
Zone	M-X-T	M-X-T
Use(s)	Vacant	44 Townhomes and 9,300 sq. ft. of Commercial
Gross Acreage	24.89	24.89
Number of Dwelling Units	0	44
Parcels	2	2

**Floor Area Ratio (FAR) in the M-X-T Zone**

Base Density Allowed	0.40 FAR
Residential	1.00 FAR
Total FAR Permitted	1.40 FAR
Total FAR Approved	0.0086 FAR

3. **Location:** The subject property is located on the eastern side of MD 381 (Brandywine Road), approximately 1,200 feet north of its intersection with Dyson Road, within Planning Area 85A and Council District 9.
4. **Surrounding Uses:** The subject property is bounded to the north and east by A-63 (Mattawoman Drive), a master plan arterial roadway, and to the south by Dyson Road. To the east, across Mattawoman Drive are single-family detached residences in the Residential Suburban Development (R-S) Zone and, to the south, across Dyson Road is vacant land. Abutting to the west are single-family dwellings in the Rural Residential (R-R) Zone, with MD 5 (Branch Avenue) beyond.

5. **Previous Approvals:** The site is subject to Stormwater Management Concept Plan 38664-2016-01, which was approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) on August 11, 2017 and is valid until August 11, 2020. The project is also the subject of an approved natural resources inventory equivalency letter approved on October 18, 2017 and valid until October 18, 2022. Subsequent to approval of the CSP, a preliminary plan of subdivision (PPS), a detailed site plan (DSP), and final plats will be required prior to development of the site in accordance with Section 27-270 of the Prince George's County Zoning Ordinance, which establishes the order of approvals.
6. **Design Features:** The 24.89-acre site fronts on Dyson Road, which borders the subject site along its southern boundary. Forty-four townhouses are herein approved to be provided in the southeastern portion of the site. A passive recreational area is being provided for the residents. Some details of the layout of the townhouses, though not required at this time, were provided by the applicant.

The parks requirement will be addressed at the time of PPS. If the parks requirement is met by provision of private recreational facilities, the Planning Board would evaluate the adequacy of the proffered private recreational facilities at the time of PPS and DSP. Likewise, the layout of the townhouses appears to be acceptable, but will be further reviewed at the DSP stage of the review process.

As the project is located in the M-X-T Zone, two land uses are required and proposed. The Planning Board has herein approved the residential townhouses to be accessed via Dyson Road (Phase I) and 9,300 square feet of commercial development to be accessed from Mattawoman Drive (Phase II).

Notable on the site plan is the presence of environmental features, which extend from Dyson Road in a diagonal fashion across the site, separating the residential from the commercial sections of the project. Traversing the area covered by the sensitive environmental features, as part of the project, is not approved herein.

#### COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The subject approval has been reviewed for compliance with the following requirements of the Zoning Ordinance:
  - a. The subject approval is in conformance with the requirements of Section 27-547 of the Zoning Ordinance, which governs uses in mixed-use zones.
    - (1) The townhomes approved herein are permitted uses in the M-X-T Zone.
    - (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.**

The CSP includes the required mix of uses including residential and commercial, in conformance with this requirement.

(e) **For property placed in the M-X-T Zone by a Sectional Map Amendment approved after October 1, 2006, and recommended for mixed-use development in the General Plan, and a Master Plan, or Sector Plan for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, a Conceptual Site Plan submitted for any property located in the M-X-T Zone may include only one (1) of the above categories, provided that it conforms to the goals, policies, and recommendations of the plan for that specific portion of the M-X-T Zone.**

This is not applicable to the subject project, as the subject site was not included in a comprehensive land use study.

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

The approved floor area ratio (FAR) for the subject development is within the limits set out above. The applicant is not proposing to use the optional method of development, or to seek any bonus incentives.

- (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 CSP indicates that 44 townhomes, on 44 separate lots, are planned together with 9,300 square feet of commercial, in conformance with this requirement.

- (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. The subsequent DSP approval will provide regulations for the 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 uses.**

The development is subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Additional buffering and screening may be required 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 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 development of 9,300 square feet of commercial space and 44 townhomes approved herein on a 24.89-acre site is 0.0086, which was calculated in accordance with the 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. Therefore, this requirement is not applicable to the subject case.

- (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 project has frontage on, and direct vehicular access to, Dyson Road and Mattawoman Drive, both public streets, in accordance with this requirement. The further subdivision of the property will occur at the time of PPS when adequate access and circulation will be evaluated pursuant to Subtitle 24 of the Prince George's County Code.

- (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 eight hundred (1,800) 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 six (6) townhouses per building group, except where the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than six (6) dwelling units (but not more than eight (8) 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 six (6) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width. The minimum building width in any continuous, attached group shall be twenty (20) 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 (1/2) 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, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width. The minimum building width in any continuous, attached group shall be twenty-two (22) 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 are preferred to 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 District Council may approve a request to substitute townhouses, proposed for development as condominiums, for multifamily dwellings that were required as a condition of approval in a Conceptual Site Plan approved prior to April 1, 2004. Such substitution shall not require a revision to any previous plan approvals. Further, such townhouses are subject to all other requirements of the Zoning Ordinance.**

This subsection of the regulations for the M-X-T Zone is applicable to the subject project, as it involves the development of townhomes.

Conformance with these requirements will be evaluated at the time of the PPS and DSP phases of the project. Revision to the conceptual layout may be required at that time to meet the above standards.

- (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.**

This subsection of the regulations for the M-X-T Zone is not applicable to the subject project, as it does not involve the development of multifamily buildings.

- (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).**

This requirement does not apply to this CSP. The CSP has been reviewed for conformance with the applicable regulations in the M-X-T Zone.

- c. In accordance with Section 27-546(d) of the Zoning Ordinance, in addition to the findings required to approve a CSP, the Prince George's County Planning Board shall make the following findings for projects in the M-X-T Zone.

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

The purposes of the M-X-T Zone, as stated in Section 27-542(a), include the following:

**Section 27-542(a)**

- (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;**

The subject project promotes the orderly redevelopment of a vacant parcel. This project will enhance the economic status of the County by provision of desirable living opportunities for its citizens.

- (2) **To implement recommendations in the approved General Plan, Master Plans, and Sector Plans, by creating compact, mixed-use, walkable communities enhanced by a mix of residential, commercial, recreational, open space, employment, and institutional uses;**

The project implements the *Plan Prince George's 2035 Approved General Plan's* (Plan Prince George's 2035) vision for the Established Communities growth policy area in providing the desired context-sensitive infill and low- to medium-density development, and in that the adequacy of public facilities will be ensured at the time of PPS. The project implements the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment's* (Subregion 5 Master Plan and SMA) vision as it includes commercial development, which the site was slated for in the plan, and as close attention is being paid to pedestrian and bicycle facilities, a main concern of the master plan, as the project is proximate to a proposed transit station in the core of the Brandywine Community. The project is in conformance with the above requirements.

- (3) 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;**

The location of the zone is not an issue in the subject approval. Therefore, this finding is not applicable to the subject approval.

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

The subject plan conforms to the required findings for a CSP in the M-X-T Zone from the standpoint of transportation. See Finding 11.c. for a more detailed discussion of that conformance.

- (5) 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;**

The project is in conformance with this requirement due to its residential character. There will be activity on the site seven days a week, as a residential land use. The commercial component is abutting, but will be oriented to the northeast along Mattawoman Drive, providing a commercial component to be supported by the surrounding residential land uses, also in conformance with this requirement.

- (6) To encourage diverse land uses which blend together harmoniously;**



The commercial and residential uses will blend together harmoniously in accordance with this required finding, in part due to the natural buffer created between them by the sensitive environmental features on the site.

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

The sort of detail necessary to determine full conformance with this requirement (the precise location of the buildings, the architecture, signage, landscape, and hardscape) will be provided at the future time of DSP, and conformance with this required finding will be reevaluated. Due to the environmental feature, providing an internal connection between the residential and commercial portions of the development is not feasible and not recommended. The distinctive visual character and identity between the two phases will be further evaluated with the DSP.

**(8) 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;**

The development will benefit overall by the increase in the size of the project, which occurred as a revision during the review period to add the commercial component, a requirement of the M-X-T Zone (two land uses) which is consistent with this finding beyond a single-purpose project.

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

The subject CSP will permit a flexible response to the market as it is conceptual in nature and may be subject to revision. Should the market change, which is very likely, given the location of planned public and private projects in the vicinity of the site, the applicant would be able to return to the Planning Board to request a revision to the plans.

**(10) 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.**

The specific architecture for the project will be reviewed at the time of DSP.

**(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 project is generally in conformance with the design guidelines and standards to the extent that detail is provided at this stage of review. Review, in this respect, will be refined at the time of DSP.

**(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 development has an outward orientation, with the residential portion (44 townhouses) being oriented toward Dyson Road and the commercial portion being oriented toward Mattawoman Drive. At the time of DSP, the Planning Board will ensure that conformance with this requirement is further served by requiring that the fronts of buildings face on the road frontages.

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

The subject project is compatible with existing development, which is primarily residential in nature (large-lot, single-family detached and townhouse). This mixed-use development includes residential, which is consistent with the surrounding properties, and provides a small component of commercial which will serve that residential environment.

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

The commercial land use will provide retail and office services, which may be utilized by the residents of the proposed development, helping to create a cohesive development capable of sustaining an independent environment, in accordance with this required finding. At the time of DSP, when the individual buildings and other improvements are approved, the Planning Board will ensure that the architecture, hardscape, landscape, and signage approved for the development will reflect a cohesive development of continued quality and stability, also in accordance with this required finding.

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

The development is staged, with the first phase including 44 townhouses, and the second phase including 9,300 square feet of commercial development. As the residential portion is to be developed first, well before the second phase, it will have to, by its nature, be designed as a self-sufficient entity. When the applicant decides to go forward with the second phase of the development, it will, by virtue of being a part of the overall project

and in common ownership, allow for the effective integration of the second phase. At that time, the Planning Board will look for and require compatibility between the two phases in terms of architecture, hardscape, landscape, and signage, as appropriate, in accordance with this requirement.

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

The pedestrian system will be further defined in the DSP to ensure convenient, safe, and comprehensive pedestrian facilities, in accordance with this required finding, along the public rights-of-way.

- (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**

This requirement will be evaluated when a DSP is reviewed for the subject project.

- (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, or will be provided by the applicant, 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 plan conforms with the required findings of adequacy from the standpoint of transportation planning, as certain transportation-related conditions have been placed on the approval.

- (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 approved by the applicant.**

This requirement is to be evaluated at the time of approval of a DSP for this project.

- (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 24.89 acres and therefore does not meet the above acreage requirement.

- d. The CSP has been reviewed for conformance with the applicable site design guidelines contained in Section 27-274 of the Zoning Ordinance. The Planning Board has reviewed the case against the requirements of Section 27-274 regarding CSP design. This includes considerations such as parking, circulation, views, green area, amenities, and grading. A more specific review including items such as architecture and streetscape details will be addressed at the time of DSP.
- (1) In accordance with Section 27-274(a)(2)(B), loading areas should be visually unobtrusive and loading for the commercial use should also be located to the side of the building and be visually screened from public roadways. There is no loading proposed in Phase I. If loading is required in Phase II, it will be evaluated for conformance to this requirement at that time.
- (2) In accordance with Section 27-274(a)(6)(A)(i), Site and streetscape amenities, coordination of the design of light fixtures, benches, trash receptacles, bicycle racks, and other street furniture will be required. A comprehensive review of streetscape amenities will occur at the time of DSP.
- e. In accordance with Section 27-574, 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). The CSP is not required to include detailed parking information. At the time of DSP review, adequate parking and loading will be required for the proposal.
8. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The property 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 it contains more than 10,000 square feet of existing woodland. The Planning Board has reviewed the project for conformance with the WCO and herein approves the tree conservation plan (TCP), with conditions. Therefore, the subject project is in conformance with the requirements of the WCO, as further discussed in Finding 11.g.

9. **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 that are zoned M-X-T are required to provide a minimum of 10 percent of the gross tract area in TCC. Conformance to the requirements of the Tree Canopy Coverage Ordinance will be ensured at the time of approval of a DSP for the project.
10. **2010 Prince George’s County Landscape Manual:** This M-X-T development will be subject to the requirements of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual) at the time of DSP. Specifically, the site is subject to Section 4.2, Requirements for Landscaped Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the Landscape Manual.
11. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Historic Preservation—**The subject property comprises 24.89 acres located on the northwest side of Dyson Road, approximately 1,000 feet northeast of its intersection with MD 381 (Brandywine Road), in Brandywine. The subject approval is for the development of the subject property in two phases. Phase I is comprised of townhouses and related improvements on 8.84 acres, and Phase II encompasses the remaining 16.05 acres for future commercial use. The subject property is zoned M-X-T.

Most of the northern part of the subject property contains wetlands. Parcel A appears to have been mined for sand and gravel. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The subject property does not contain, and is not adjacent to, any Prince George’s County historic sites or resources. This proposal will not impact any historic sites, historic resources, or known archeological sites. A Phase I archeology survey is not required.

- b. **Community Planning—**

**Determinations**

Pursuant to Part 3, Division 9, Subdivision 2, of the Zoning Ordinance, master plan conformance is not required for this CSP. However, the CSP must not substantially impair the master plan or General Plan, and consideration has been given to how closely the approval meets the purposes of the M-X-T Zone and the goals and recommendations of the approved land use plans, such as supporting transit ridership with a trail connection to the planned transit node.

The subject property is located within the Established Communities growth policy area designated in Plan Prince George’s 2035. Established Communities are “most 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).

The Subregion 5 Master Plan and SMA recommends future commercial land use on the subject property. The master plan makes the following specific recommendation for future development in proximity to the subject site (page 51):

**In addition to the transit station in the transit station in the core of the Brandywine Community Center, a second station is shown near the planned MD5/A-63 interchange”. This station would be placed on or near the site of the current park and ride lot, and is envisioned as being park-and-ride oriented, attracting residents from broad portions of Subregions 5 and 6. Large parking facilities could be considered here...a transit node is planned in Brandywine at the MD 5/A-63 interchange north of TB. This station is envisioned as being park-and-ride oriented. Land use in the area surrounding the transit station (on both sides of MD 5) would be a mix of commercial and institution uses east and west of MD 5.**

Consideration for the transit node will be made with the future development of Phase II.

The property is located in Planning Area 85A in Brandywine and Vicinity. This subject property is not located within an aviation policy area or the Military Installation Overlay Zone. The Subregion 5 SMA (CR-81-2013, July 24, 2013) retained the subject property in the M-X-T Zone. This zone was placed on the site with the District Council’s approval of Zoning Order ZO-20-2009.

Pursuant to Section 27-276 of the Zoning Ordinance, the Planning Board may approve a CSP in the M-X-T Zone if it finds that the property and “the Plan satisfy all criteria for M-X-T Zone approval in Part 3, Division 2; the Plan and proposed development meet the purposes and applicable requirements of the M-X-T Zone; the Plan meets all requirements stated in the definition of the use; and the Plan shows a reasonable alternative for satisfying, in a high-quality, well-integrated mixed-use community, all applicable site design guidelines.” This plan has been evaluated for conformance to this standard and, based on the findings herein, conforms to these requirements and found to not impair the recommendations of the master plan.

- c. **Transportation**—The table below summarizes trip generation in each peak hour that will be used for the analysis and for formulating the trip cap for the site, which includes 44 townhouses and 9,300 square feet of commercial uses:

Trip Generation Summary, CSP-16005, Fallen Oaks								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Retail	9,300	square feet	24	13	37	59	63	122
Less Pass-By (0 percent AM; 34 percent PM)			-0	-0	-0	-20	-21	-41
Net Retail Trips			24	13	37	39	42	81
Townhouses	46	units	6	26	32	24	13	37
<b>Total Trips Utilized in Analysis</b>			<b>30</b>	<b>39</b>	<b>69</b>	<b>63</b>	<b>55</b>	<b>118</b>

It was anticipated that greater than 50 trips would be generated during either peak hour; consequently, a traffic impact study (TIS) was requested. To that end, the applicant has provided the Planning Board with a TIS dated June 6, 2017. Using data from this recent TIS, the following results were determined:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Dyson Road and Mattawoman Drive	11.2*	10.4*	--	--
Dyson Road and Site Access	N/A	N/A	--	--
Dyson Road and Brandywine Road	19.7*	19.6*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the "Guidelines for the Analysis of the Traffic Impact of Development Proposals" (Guidelines), delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

In evaluating the effect of background traffic, the TIS included a growth of three percent per year for two years that was applied to the through traffic volumes. While no background development was selected for these analyses, it is worth mentioning that, pursuant to CR-9-2017 which amends CR-60-1993, a Brandywine Road Club was established to collect fees that are intended to provide plenary improvements within the area covered by the road club to meet adequate transportation facilities. Based on regional growth, a second analysis was done. The table below shows the results:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
	Dyson Road and Mattawoman Drive	11.4*	10.5*	--
Dyson Road and Site Access	N/A	N/A	--	--
Dyson Road and Brandywine Road	29.0*	21.6*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Regarding the total traffic scenario, the trip generation, as computed above, was applied to the local transportation network. The total traffic analysis indicates the following results:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
	Dyson Road and Mattawoman Drive	11.6*	11.1*	--
Dyson Road and Site Access	10.4*	11.9*	--	--
Dyson Road and Brandywine Road	38.7*	32.1*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

The results of the traffic analyses show that, under total traffic, all of the intersections will operate within acceptable adequacy thresholds. In addition to the three intersections analyzed, there are other intersections on which the development herein approved may have an impact. Further review for transportation adequacy will be analyzed at the time of PPS. On March 28, 2017, the County Council adopted CR-9-2017, which amends CR-60-1993. Specifically, this resolution establishes a fee structure for payment into the Brandywine Road Club to meet adequacy and the fulfillment of the requirements of Section 24-124(a)(8) of the Subdivision Regulations. The Brandywine Road Club covers an area defined by Planning Areas 85A and 85B. Given that the subject property is located within Planning Area 85A, the affected transportation facilities on which this development could have an impact may be covered by the fees collected by this road club, which will be further evaluated at the time of PPS.



### **Master Plan, Right of Way Dedication**

The property is located in an area where the development policies are governed by the Subregion 5 Master Plan and SMA. The property fronts on a section of Dyson Road where the current right-of-way is approximately 30 feet. The site plan is showing additional dedication consistent with the adjacent section of the road where the right-of-way is approximately 50 feet. It is noted that the adjacent section of Dyson Road carries no master plan designation. At the time of PPS, the applicant will be required to dedicate a minimum of 25 feet from the existing center line of Dyson Road.

The proposed right-of-way for A-63 (Mattawoman Drive) passes approximately 170 feet north of the northeast corner of the subject site. The alignment of A-63 has been modified subsequent to its original dedication. Access to the Phase II commercial will be via A-63. The alignment, dedication, and/or vacation of parts of A-63 will be further reviewed at the time of PPS to ensure that Phase II will have frontage on, and direct access to, a public street available.

### **Transportation Findings**

The approval analyzed is a CSP for construction of a mixed-use development consisting of townhomes and commercial uses. Overall, the approved development consisting of 44 townhomes and 9,300 square feet of retail, will generate 69 AM peak trips (29 in, 40 out), and 118 PM peak trips (63 in, 55 out).

The traffic generated by the CSP herein approved will impact the following intersections:

- Dyson Road and Mattawoman Drive
- Dyson Road and Site Access
- Dyson Road and Brandywine Road

The findings and recommendations outlined below are based upon a review of the materials and analyses conducted by the Planning Board, consistent with the “Transportation Review Guidelines, Part 1.”

The subject property is located within Transportation Service Area (TSA) 2, as defined in Plan Prince George’s 2035. As such, the subject property is evaluated according to the following standards:

- **Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better;
- **Unsignalized intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections: (a) vehicle delay is computed in all movements using The Highway Capacity Manual (Transportation Research Board) procedure; (b) the maximum

approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using The Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. Once the CLV exceeds 1,150 for either type of intersection, this is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

All of the intersections analyzed were found to be operating adequately. The subject property is located within Planning Area 85A, and is therefore within the land area covered by the Brandywine Road Club.

#### **Transportation Conclusions**

Based on the preceding findings, the Planning Board determines that, pursuant to Section 27-546 of the Zoning Ordinance, the plan conforms to the required findings for approval of a CSP from the standpoint of transportation, in accordance with Section 24-124(a)(8), as the approval is made subject to the following conditions:

- (1) Total development within the subject property shall be limited to uses which generate no more 69 AM peak trips and 118 PM peak trips. Any development generating an impact greater than that identified herein above shall require a new determination of the adequacy of transportation facilities.
  - (2) At the time of PPS, the Planning Board shall determine, pursuant to the provisions of CR-9-2017, if fees associated with the Brandywine Road Club are required. Any fees shall be paid to Prince George's County (or its designee), to be indexed by the appropriate cost indices to be determined by DPIE.
- d. **Subdivision**—The property is known as Parcels 133 and Parcel A, Block M. Parcel 133 is a legal acreage parcel that has never been the subject of a prior PPS. Parcel A, Block M, was the subject of prior Preliminary Plan of Subdivision 4-99048 approved by the Planning Board on December 9, 1999 (PGCPB Resolution No. 99-230) with 22 conditions. These prior approval conditions will be superseded with the new PPS that is required to be approved for the property. A Final Plat of Subdivision, REP 195-72, was recorded for Parcel A, Block M, on December 12, 2002. The approval is for the development of 44 attached dwelling units, one residential parcel, and one commercial parcel in the M-X-T Zone.

Vehicular access to the commercial use on the site will be provided by future A-63 (Mattawoman Drive). The Planning Board will review for any impacts that may be proposed to sensitive environmental features, in order to accommodate the access road, at the time of CSP for Phase II of the subject development.

The site abuts a master planned freeway (F-9) along portions of the western property line. In accordance with Section 24-121(a)(4) of the Subdivision Regulations, residential lots adjacent to an existing or planned roadway of freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of 300 feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate. Although, this requirement would not appear to affect the conceptual lot layout shown on the CSP, the limits of the 300-foot lot depth requirement should be demonstrated on the plan.

Approval of a new PPS will be required prior to approval of a DSP application in order to create the desired lotting pattern and to test for adequate public facilities requirements for the proposed mix of uses. The applicant should be aware that a lotting pattern shown on a CSP is conceptual in nature and revisions could and may occur at the time of PPS.

#### **Plan Comments**

- (1) The plan should be revised to show that vehicular access to the commercial portion of the site will be provided via Mattawoman Drive. The “Proposed Primary Circulation” arrow provided in the plan’s legend can be used to demonstrate this. It is understood that the exact location of the access point will be determined at the time of the amendment to the CSP for Phase II of the proposed development.
  - (2) The general notes should be revised to include parcel information for the two underlying parcels that make up the subject property (Parcels 133 and Parcel A, Block M). Deed references can be provided for Parcel 133, an unrecorded parcel; however, plat information should be referenced and labeled for Parcel A, Block M, which is a recorded parcel.
- e. **Trails**—As indicated, the site is covered by the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the 2013 Subregion 5 Master Plan and SMA. Because the site is located in the Branch Avenue Corridor, it will be subject to the requirements of Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines, Part 2” at the time of PPS.

Two master plan trail/bikeway issues impact the application, with a shared-used sidepath (or wide sidewalk) recommended along Dyson Road and A-63 (Mattawoman Drive) (see MPOT map). The master plan facility along Dyson Road has been implemented as a wide sidewalk along the frontages of several properties in the vicinity of the subject site, including the frontage of the nearby Gwynn Park Middle School, which lies approximately 1,100 linear feet to the northeast of the subject site along Dyson Road. Gwynn Park High School is directly across Dyson Road from the subject property. The Planning Board requires the continuation of the sidepath along the frontage of the subject site. The master plan sidepath along A-63 will be implemented at the time of road construction. This will probably occur when the planned interchange is constructed with MD 5 (Branch Avenue), and no trail or road construction for A-63 is required at this time.

The Complete Streets element of the MPOT reinforces the need for these recommendations, and includes the following policies regarding sidewalk construction and the accommodation of pedestrians.

**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.**

Sidewalks are recommended along both sides of all internal roads, consistent with these policies. A detailed analysis of the internal sidewalk and trail network will be made at the time of PPS and DSP. The following will be evaluated at that time:

- Sidewalks shall be provided along both sides of all internal roads, consistent with the Complete Streets policies of the MPOT.
- Provide a shared-use sidepath (or wide sidewalk) along the subject's site's frontage of Dyson Road.
- Due to the location of the subject site within the Branch Avenue Corridor, the site will be subject to the requirements of Section 24-124.01 of the Subdivision Regulations and the "Transportation Review Guidelines, Part 2" at the time of PPS.

In conformance with the Subregion 5 Master Plan and SMA and the MPOT, the applicant and the applicant's heirs, successors, and/or assignees should provide the following at the time of PPS:

- (1) An eight-foot-wide sidepath (or wide sidewalk) along the subject site's entire

frontage of Dyson Road, unless modified by DPIE.

- (2) Sidewalk access to all residential units.
- f. **Prince George’s County Department of Parks and Recreation (DPR)**—In a memorandum March 26, 2017, DPR stated that, at the time of PPS (as per Section 24-134(a)(1), Mandatory Dedication of Parkland, of the Subdivision Regulations), residential subdivisions of this density may be required to dedicate 7.5 percent of their land to the Maryland-National Capital Park and Planning Commission for public parks. Since the property is not contiguous to existing parkland, on-site recreational facilities will be preferable to land dedication.
- g. **Environmental**—The Planning Board has reviewed the subject CSP, originally stamped as received on February 13, 2017. The initial CSP application was accompanied by a Type 1 Tree Conservation Plan, TCP1-002-2017. Verbal comments were provided during the Subdivision and Development Review Committee meeting on March 10, 2017, and discussed at subsequent meetings on April 3, 2017 and April 27, 2017. A revised plan was stamped as received on June 15, 2017. After further correspondence with the applicant, and a meeting between the applicant and the Planning Board, the plan was revised again to include Parcel A, Block M, of The Hamptons subdivision, utilizing the subject TCP1-029-94-01, and stamped as received on September 15, 2017. Type 1 Tree Conservation Plan TCP1-002-2017 was withdrawn.

The Planning Board herein approves CSP-16005 and TCP1-029-94-01, subject to the conditions.

#### **Background**

The Planning Board previously reviewed and signed a Natural Resources Inventory, NRI-106-2016, for the 8.84-acre Parcel 133 on September 9, 2016. A revised NRI for the same parcel was approved on September 19, 2017. An NRI Equivalency Letter, NRI-183-2017, was accepted for review and was approved on October 18, 2017, explicitly for Parcel A. A condition of this approval requires that, with a development application for Parcel A, the full NRI must be revised to include Parcel A. No other environmental reviews have occurred on this site.

#### **Proposed Activity**

The applicant is requesting approval of a CSP and a Type 1 tree conservation plan (TCP1) for the construction of a townhouse development and commercial area. The area of the CSP is 24.89 acres and the area of the TCP1 is 198.16 acres.

### **Grandfathering**

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

### **Site Description**

The 24.89-acre site is located on the north side of Dyson Road, approximately 1,200 feet east of MD 381 in Brandywine. The site is currently vacant. A review of available information indicates that the site does contain streams within the Middle Potomac watershed and drains toward Piscataway Creek, a Maryland stronghold watershed, to the north. Floodplain and wetlands are also mapped on this property. The Sensitive Species Project Review Area map received from the Maryland Department of Natural Resources, Natural Heritage Program, shows no rare, threatened, or endangered species found to occur on, or near this property. Forest interior dwelling species (FIDS) habitat and a FIDS buffer are mapped on-site. The site is located within Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map as designated by Plan Prince George's 2035. The approved 2017 *Countywide Green Infrastructure Plan* shows that the site is entirely within the regulated and evaluation areas.

### **Natural Resources Inventory Plan Existing Features**

The approval has two approved NRIs. Natural Resources Inventory NRI-106-2016-01 is for Parcel 133 (8.84 acres), approved on September 19, 2017. Natural Resources Inventory NRI-183-2017 is for Parcel A (16.05 acres), approved on October 18, 2017. Overall, the 24.89-acre site contains woodlands, specimen trees, streams and associated buffers, wetlands and associated buffers, and floodplain, all contained within the delineated primary management area (PMA). Because no development is approved on Parcel A as part of this development, a plan NRI is not required at this time. Specimen trees were only inventoried and evaluated for Parcel 133, where development is proposed. Although the general notes state that there are 57 specimen trees on-site, the plan correctly shows and lists 41 specimen trees present on the site.

The TCP1 and CSP show all the required information correctly, in conformance with the approved NRIs. Prior to any future application for development on Parcel A, a full NRI plan for that parcel shall be submitted for review and approval.

### **Woodland Conservation**

This property is subject to the provisions of the WCO because the property is greater than 40,000 square feet in size and it contains more than 10,000 square feet of existing woodland. Because part of the site is subject to existing Type 1 and Type 2 Tree Conservation Plans (TCP1-029-94 and TCP2-034-96), a revised Type 1 Tree Conservation Plan, TCP1-029-94-01, that shows the addition of Parcel 133 has been submitted. The addition of Parcel 133 results in a gross tract area of 198.16 acres for the TCP1 only. The TCP1 plan includes a note that clarifies the limits of the CSP application (24.89 acres).

Although the subject area of this CSP approval is zoned M-X-T, which has a 15 percent woodland conservation threshold, the applicant and the Planning Board have agreed to the continued application of the threshold approved with the original TCP1 (198.16 acres), which is 20 percent.

As previously stated, no development is approved on Parcel A (Phase II) at this time. The overall site of the TCP1 is 198.16 acres, which includes additional property to the east, not part of this CSP. The TCP1 worksheet correctly calculates a woodland conservation threshold of 37.66 acres, and the overall requirement of 54.24 acres, after proposing to clear an additional 4.38 acres on Parcel 133. The requirement is herein approved to be met with 57.78 acres of on-site woodland preservation, exceeding the 54.24-acre requirement. An additional 16.31 acres of woodland will be preserved, but not counted as credit.

Prior to signature approval of the CSP, the TCP1 shall, by condition of this approval, be revised to make technical corrections.

#### **Specimen Trees**

Section 25-122(b)(1)(G) of the WCO requires that “[s]pecimen 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.”

Effective October 1, 2009, the State Forest Conservation Act was amended to include a requirement for a variance if a specimen, champion, or historic tree is proposed to be removed. This state requirement was incorporated in the adopted County Code that became effective on September 1, 2010.

A Subtitle 25 variance application, a statement of justification in support of a variance, and a plan showing the trees to be removed and impacted were stamped as received by the Planning Board on October 12, 2017.

The Specimen Tree table on the TCP1 shows the removal of 7 of the 41 on-site specimen trees. The limits of disturbance on the plan also show that these trees are to be removed.

**SPECIMEN TREE REMOVAL SUMMARY**

<b>SPECIMAN TREE</b>	<b>SIZE (DBH)</b>	<b>SPECIES</b>	<b>CONDITION</b>	<b>DISPOSITION</b>	<b>REASON FOR REMOVAL</b>
ST-2	32"	Yellow poplar	Fair-Good	Remove	Approved infrastructure
ST-3	30"	Green ash	Good	Remove	Approved infrastructure
ST-4	35"	Green ash	Good	Remove	Approved infrastructure
ST-5	37"	Yellow poplar	Good	Remove	Approved infrastructure
ST-6	54"	Yellow poplar	Excellent-Good	Remove	Approved infrastructure
ST-7	31"	Yellow poplar	Excellent-Good	Remove	Approved infrastructure
ST-9	38"	Sweetgum	Poor	Remove	Approved infrastructure

Section 25-119(d) of the WCO contains six required findings to be made before a variance can be granted. A letter of justification dated October 12, 2017 seeks to address the required findings for all seven specimen trees as a group; however, details specific to the individual trees have also been provided in the following chart.

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 for all seven specimen trees together.

**(A) Special conditions peculiar to the property have caused the unwarranted hardship;**

The site is fully forested with wetlands, floodplain, and stream channels flowing through the western and northern portions. As this property was once part of a much larger gravel mining site, drainage channels and travel pathways are still found on-site. The existing specimen trees that need to be removed, listed above, follow a significant drainage channel that traverses diagonally across the center of the property from the southeast corner, west-northwest, to the regulated stream.

Due to the extensive environmental area on the site, the developable area, mostly at the southern end of the site fronting the road, is significantly limited. The applicant has made every effort to design the site to minimize impacts, to the extent possible.

Primarily, the hardship on this site is created by the location of the trees in this developable area, in addition to the need for stormwater management and other required infrastructure to meet the requirements of the County Code. However, equally as important for the development to succeed, the development has to be placed in the southern half of the property away from jurisdictional wetlands and waters of the U.S. In addition, if the seven specimen trees were preserved, the developable area would be significantly reduced in size, making the project impracticable.



Although 7 specimen trees will be removed, 34 specimen trees (Trees 1, 8, and 26–56) located in the PMA will be preserved.

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

Approval of this variance request to remove seven specimen trees on the property is consistent with the County's expectations with regard to development of this site currently zoned M-X-T. If other properties, similarly zoned, encounter trees in a similar condition and in a similar location on a site, the same considerations would be provided during the review of the required variance application.

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

The purpose of the request is to remove seven specimen trees and avoid further significant impacts to jurisdiction features within the PMA. The applicant is not asking the County for any special privileges that would be denied to other applicants, but permission to remove seven specimen trees, so that the site may be developed in accordance with its designated zoning.

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

This request is not based on conditions or circumstances which are solely the result of actions by the applicant. The removal of these specimen trees is primarily due to their location on the developable portion of the site, and their immediate relationship to the presence of 1.08 acres of palustrine forested wetlands and approximately 1,300 linear feet of waters of the U.S. The request is not the result of actions by the applicant.

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

This request is based on the nature of the existing site, distribution of the subject trees, and the existing infrastructure surrounding the site. This request is not based on a condition relating to land or a building use on a neighboring property.

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

The Fallen Oak Townhouse development herein approved will not adversely affect water quality because the review of the project will be subject to the requirements of the Maryland Department of the Environment and the Prince George's County Soil Conservation District.

All 7 of the specimen trees to be removed are adjacent to regulated environmental features; however, the remaining 34 specimen trees to be preserved will continue to provide water quality benefits, canopy tree shading reducing the ambient temperature of stormwater run-off, water infiltration in the root zone, and soil erosion prevention.

#### **Summary of the Specimen Tree Variance Request**

The seven specimen trees proposed for removal are all located in the most developable area of the site, and are adjacent to an extensive area of regulated environmental features, most of which will be preserved and placed into a protective easement.

The required findings of Section 25-119(d) have been adequately addressed and the Planning Board herein approves the removal of Specimen Trees 2–7 and 9.

#### **Preservation of Regulated Environmental Features/Primary Management Area**

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

The existing regulated environmental features located on Parcel 133 include 1.08 acres of wetlands, 1,300 linear feet of regulated streams, 75-foot-wide stream buffers, wetland buffers, and floodplain, all contained within a 4.70-acre PMA. According to the TCP1, impacts to the PMA are proposed for grading, stormwater management, and infrastructure. A statement of justification has been received for the impacts herein approved to the PMA, stream buffer, and non-tidal wetland buffer.

#### **Statement of Justification**

The 8.84-acre area subject to this request (Phase I) is currently fully wooded, with the overall drainage pattern draining generally in a northerly direction. The applicant is requesting impacts to the regulated environmental features totaling 0.48 acre, including 0.20 acre of wetland buffer impact, approximately 0.23 acre of stream buffer disturbance,

and approximately 0.05 acre of wetland impact. On October 19, 2017, the applicant submitted the statement of justification for the impact to the PMA.

### **Analysis of Impacts**

The applicant has presented several layout proposals for this site, and through multiple meetings with the Planning staff and the Planning Director, has considerably reduced the scope of the project to the current proposal. With PMA covering over 50 percent of the site, primarily located on the northern half of the property, the development herein approved is concentrated on the southern portion of the property, along the frontage of Dyson Road. The PMA follows an irregular pattern near the center of the property, making reasonable design of the site and avoidance of impact challenging. The current plan proposes PMA impacts to the stream buffer on the western side of the property for a stormwater bioretention facility and impacts to the wetlands and associated buffers for grading and road/infrastructure improvements. The townhouse dwelling units will not impact the PMA. The Planning Board herein approves the proposed PMA impacts.

Based on the level of design information currently available, the limits of disturbance shown on the TCP1, and the impact exhibits, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible, in accordance with Section 27-276(b)(4) of the Zoning Ordinance.

### **Soils**

The predominant soils found to occur, according to the U.S. Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey, are the Beltsville-silt loam (5-10 percent slopes), Beltsville-Urban land complex (0-5 percent slopes), Sassafras sandy loam (0-2 percent slopes), and Udorthents (0-5 percent slopes). Marlboro clay was not found to occur on, or in the vicinity of, this property.

- h. **Prince George's County Fire/EMS Department**—The Fire/EMS Department did not provide comment regarding the subject project.
- i. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated August 17, 2017, DPIE offered numerous comments that will be addressed through their separate permitting process. DPIE also stated that the subject CSP is consistent with approved Stormwater Management Concept Plan 38664-2016-01 dated August 11, 2017, which had been revised to minimize the environmental impacts to existing wetlands on the site.
- j. **Prince George's County Police Department**—The Police Department did not provide comment regarding the subject project.

- k. **Prince George's County Health Department**—In a memorandum dated October 6, 2017, the Health Department offered the following comments:

The Environmental Engineering/Policy Program of the Prince George's County Health Department has completed a review of the conceptual site plan submission for CHI at Hampton LLC, Fallen Oak Townhomes that will be located 1000 feet northeast of the intersection of Dyson Road and Brandywine Rd, Brandywine, MD 20613 and have the following comments/recommendations:

- (1) Health Department permit records indicate there are approximately ten existing carry-out/convenience store food facilities and two markets/grocery stores within a half 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 applicant should consider setting aside retail space for a tenant that would provide access to healthy food choices in the area.
- (2) The specific design plans should include open spaces and “pet friendly” amenities for pets and their owners. Designated park areas may consist of the appropriate safe playing grounds, signage, and fencing. Pet refuse disposal stations and water sources are also recommended at strategic locations along future park and trail areas.
- (3) There is an increasing body of scientific research suggesting that community gardens enhance nutrition and physical activity and promote the role of public health in improving quality of life. The developer should consider setting aside space for a community garden.
- (4) 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.
- (5) The public health value of access to active recreational facilities has been well documented. Indicate the location of active recreational facilities within .25 mile of the proposed residences.
- (6) There is an increasing body of scientific research suggesting that artificial light pollution can have lasting adverse impacts on human health. Indicate that all proposed exterior light fixtures will be shielded and positioned so as to minimize light trespass caused by spill light.
- (7) Miscellaneous solid waste materials (debris, tires) must be collected and properly disposed to the municipal waste landfill.

- (8) Any wells or septic system components discovered in the course of site development and grading must be backfilled and/or sealed in accordance with Health Department requirements.
- (9) During the demolition/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.
- (10) During the demolition/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.

The above comments have been provided to the applicant, and conditions of this approval ensure that conditions regarding limiting noise and dust will be included on the DSP for the project.

- l. **Maryland State Highway Administration (SHA)**—In a letter dated March 24, 2017, SHA offered numerous comments that will be evaluated at the time of PPS, when adequacy of transportation facilities is judged and enforced through their separate permitting process.
  - m. **Verizon**—Verizon did not provide comment on the subject project.
  - n. **Potomac Electric Power Company (PEPCO)**—PEPCO did not provide comment on the subject project.
  - o. **Washington Suburban Sanitary Commission (WSSC)**—In an e-mail received October 5, 2017, WSSC offered numerous comments regarding the project that will be addressed through their separate permitting process.
12. Based on the foregoing, and as required by Section 27-276(b)(1) of the Zoning Ordinance, the CSP will, if approved with conditions, represent a most 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.

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 TCP1-029-94-01, and APPROVED a Variance for the removal of seven specimen trees (Trees 2-7 and 9), and further APPROVED Conceptual Site Plan CSP-16005 for the above-described land, subject to the following conditions:

1. Prior to certificate approval of the conceptual site plan (CSP), the following revisions shall be made to the plans:
  - a. Type I Tree Conservation Plan TCPI-006-116 shall be revised, as follows:
    - (1) Revise the Environmental Planning Section approval block to use the current layout on all pages.
    - (2) Insert "Kim Finch; 4-99048; 11/14/2000" as the initial approval information in the TCPI approval block. Update the "01" row to show CSP-16005 for the purpose for this revision.
    - (3) Revise the index of sheets and the Woodland Conservation Summary table to remove the "C."
    - (4) Correct pages 2 and 3 to show the engineer's scale.
    - (5) Correct the approved stormwater concept number in Note 10, Sheet 1, to 38664-2016.
    - (6) Have the revised plan signed and dated by the qualified professional preparing the plan.
  - b. The plan shall be revised to show the conceptual vehicular access to the commercial portion of the site via A-63 (Mattawoman Drive), with the "Proposed Primary Circulation" arrow provided in the plan's legend.
  - c. The general notes shall be revised to include parcel information for the two underlying parcels that make up the subject property (Parcels 133 and Parcel A, Block M). Deed references shall be provided for Parcel 133, an unrecorded parcel. Plat information shall be referenced and labeled for Parcel A, Block M, which is a recorded parcel.
2. At the time of detailed site plan (DSP):
  - a. The applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
    - (1) An eight-foot-wide sidepath (or wide sidewalk) along the subject site's entire frontage of Dyson Road, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement.
    - (2) Sidewalk access to all residential units.

- (3) Note 4 of the General Notes needs to be amended to read that the development also includes 9,300 square feet of commercial space and mention of industrial land use needs to be stricken in Note 7.
- b. If private on-site recreational facilities are required at the time of preliminary plan of subdivision, details of the same shall be reviewed by the Urban Design staff and shall be approved with the DSP for this project.
- c. Provide notes on the plans in accordance with the Prince George's County Health Department's recommendations, as follows:

“During the demolition and construction phases, this project will conform to construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.”

“During the demolition and construction phases, this project will conform to construction activity noise control requirements as specified in the Code of Maryland Regulations (COMAR).”

- 3. Prior to any future application for development on Parcel A (Phase II), a full natural resources inventory plan for that parcel shall be submitted for review and approval.
- 4. Total development within the subject property shall be limited to uses which generate no more 69 AM peak trips and 118 PM peak trips. Any development generating an impact greater than that identified herein above shall require a new determination of the adequacy of transportation facilities.

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.

\* \* \* \* \*

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Doerner, with Commissioners Washington, Doerner, Bailey, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, November 9, 2017, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 30th day of November 2017.

Elizabeth M. Hewlett  
Chairman

By Jessica Jones  
Planning Board Administrator

EMH:JJ:RG:rpg