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October 13, 2025

Ms. Donna J. Brown
Clerk, County Council
For Prince George's County
Wayne K. Curry Administration Bldg.
1301 McCormick Drive, 2nd Fl.
Largo, Maryland 20774

Re: Conceptual Site Plan CSP-23002 and
TCP1-052-97-03/Signature Club East
Response to Exceptions and
Request for Limited Remand

Dear Ms. Brown:

I represent Signature 2016 Commercial LLC, the Owner of the property forming the subject matter of the referenced applications and the Applicant in these applications.¹ The property forming the subject matter of these applications consists of Lot 12 and Outparcel B. Lot 12 consists of 13.27 acres while Outparcel B consists of 3.70 acres (hereinafter collectively the "Property"). Under the prior Zoning Ordinance, both Lot 12 and Outparcel B were zoned M-X-T (Mixed-Use Transportation Oriented). Under the new Zoning Ordinance, Lot 12 and Outparcel B are both zoned RMF-48 (Residential Multifamily - 48). The Property is part of a larger development known as Manokeek and Signature Club. Signature Club consisted of approximately 97 acres which was divided into Pods 1, 2 and 3. Pod 1 was 26.04 acres in area and became developed with the Manokeek Village Shopping Center. Pod 2 consisted of approximately 57 acres which was originally approved for 800 senior housing units including single family detached, townhomes and multifamily units. Ultimately, its development entitlement was amended to consist of 218 townhouses and 95 single family detached homes. Pod 3 was originally Lot 12 and was approved for 157,000 square feet of commercial space. These uses were all approved as part of Conceptual Site Plan, CSP-99050. Outparcel B was not included in CSP-99050. Rather, it was formerly part of a larger parcel known as Parcel 25. It was acquired

¹ The original Applicant, WP East Acquisitions LLC, was the contract purchaser of the Property. WP East Acquisitions has terminated its contract with the Owner. The Owner is now also the Applicant.

by the original developer of Signature Club in order to provide access to Manning Road for the entire project. Outparcel B was subdivided in 2002 (4-01064) and shown on a Final Plat of Subdivision recorded in Plat Book REP 205, Plat 46. It was rezoned to the M-X-T Zone pursuant to the approval of Zoning Map Amendment Application 9960-C. Hence, both Lot 12 and Outparcel B were entitled pursuant to the prior Zoning Ordinance. The Property is presently unimproved. It is located in the northeast quadrant of the intersection of Manning Road East and Berry Road (Applicant's Statement of Justification p. 1-4, Staff Report, p. 5-6).

The Applicant proposes to develop the property with a maximum of 300 multifamily residential units and 12,600 square feet of commercial space. In the M-X-T Zone a property must achieve approval of a Conceptual Site Plan, Preliminary Subdivision Plan and a Detailed Site Plan. Since additional property is being added to Lot 12 for this development, the prior Conceptual Site Plan could not simply be revised. Therefore, a new Plan (CSP-23002) has been filed. The Applicant is utilizing the provisions of the prior Zoning ordinance as expressly authorized by Section 27 -1700 et. seq. and Section 27-1900 et. seq. of the new Zoning Ordinance. This Conceptual Site Plan was recommended for approval by every review agency which submitted a referral. It was also recommended for approval in a thorough and well reasoned Staff Report. Finally, after considering referrals, the Staff Report, documentary evidence submitted into the record and after hearing testimony from the Applicant and expert witnesses on behalf of the Applicant as well as opposition testimony, the Planning Board unanimously approved CSP-23002 and TCP1-052-97-03. A number of objectors have now appealed the Planning Board's approval to the Prince Georges County Council, sitting as the District Council ("District Council").² The Applicant submits that the approval of CSP-23002 and TCP1-052-97-03 is in conformance with all Zoning Ordinance requirements and is supported by substantial evidence. For reasons set forth below, all of the exceptions taken by the opposition should be denied as they are without merit. The

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It should be noted that four of the opposition persons noted in the exceptions filed herein were not parties of record before the Planning Board. Those persons are Laura Ramirez, Alexander Gomez, Vincent Ambrosino and Janet Taylor. (See Opponents' Exceptions, footnote 1, p. 2). Pursuant to Section 27-280(a) Of the prior Zoning Ordinance, only parties of record to the proceedings before the Planning Board may appeal the Planning Board's decision on a Conceptual Site Plan to the District Council. Consequently, those persons should be dismissed from this appeal.

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Applicant does however believe that a limited remand to the Planning Board is appropriate in order to clarify certain issues related to the approval of TCP1-052-97-03.

Standard of Review

Pursuant to section 27-776 of the prior Zoning Ordinance, a Conceptual Site Plan is to be reviewed and approved by the Planning Board. The Planning Board has original jurisdiction which includes the express authority to utilize its discretion to review the Conceptual Site Plan, determine if it meets articulated criteria and thereafter either approve or deny the Conceptual Site Plan. Pursuant to Section 27-280(a) of the prior Zoning Ordinance, any party of record is allowed to appeal the Planning Board's decision to the District Council. The District Council's review is on the record compiled before the Planning Board. It is not *de novo*. Where the Planning Board exercises original jurisdiction, the District Council's review is appellate in nature. The District Council may not reverse the decision of the Planning Board as long as it is supported by substantial evidence in the record and is not affected by error of law. Heard v. County Council, 256 Md. App. 586, 607, 611, 287 A.3d 682 (2022). County Council of Prince George's County v. FCW Justice Inc., 238 Md. App. 641, 667, 193 A.3d 241 (2018).

1) THE PLANNING BOARD'S APPROVAL OF TYPE 1 TREE CONSERVATION PLAN TCP1-052-97-03 WAS NOT IN VIOLATION OF THE WOODLAND CONSERVATION ORDINANCE

The opponents argue that Lot 12 had a previously approved Tree Conservation Plan 2 (TCP 2-039-01) which was amended by TCP 2-039-01-03. They state that this amendment designated Lot 12 as a "Preservation Area".

The opponents further argue that Outparcel B was the subject of a prior approved Tree Conservation Plan (TCP 2-116-01) which designated Outparcel B as "Tree Preservation". The opponents go on to argue that the Planning Board's approval of the Tree Conservation Plan 1 for the instant development proposal for Signature Club East is in violation of the Woodland Conservation Ordinance as it did not deal with prior designations of tree retention on Lot 12 and Outparcel B. That argument is both inaccurate and misleading.

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TCP 1-052-97-03 which was filed in conjunction with the current Conceptual Site Plan (CSP-23002) was reviewed in depth by the Environmental Planning Section which issued its referral memorandum dated May 30, 2025 (see Backup, p. 76). Within that memorandum, the original TCP 1 for the entire Manokeek and Signature Club at Manning Village development is referenced. The overall project included 343.65 acres. Of that amount, 36.64% or 106.87 acres was proposed as a woodland conservation threshold. (Environmental Planning memorandum, p. 7) A number of other Tree Conservation Plans are also referenced in the referral memorandum. The Environmental Planning staff analysis within the referral memorandum goes on to note that "[T]he previously approved TCP's proposed that the off-site woodland conservation requirement for Outparcel B and Lot 12 were to be met at the time of the first permit. According to M-NCPPC woodland records, the requirement of 7.19 acres of offsite woodland conservation was not met with the first permit utilizing TCP2-039-010-03. The prior Outparcel B off-site woodland conservation requirement of 1.78 acres is required as part of this application. Before issuance of the first permit for this application, the applicant must provide the entire 8.79 acres of offsite woodland conservation". (Environmental Planning Memorandum, p.7) Further, the Technical Staff Report analyzing the instant Conceptual Site Plan contains a discussion of conformance with the Woodland Conservation Ordinance on pages 31 and 32. There it is noted "[P]reviously approved TCP's showed and accounted for all the on-site woodlands within the subject application area as being removed with the future developments. The developed phases of this development met their woodland conservation requirement with off-site woodland conservation at the time of the first permit." The Planning Board Resolution approving both CSP-23002 and TCP 1-052-97-03 also adopted the findings of the Environmental Planning Section and the Technical Staff Report in its analysis of Woodland Conservation Ordinance conformance. (PGCPB No. 2025-057, p. 29-30)

Finally, during cross examination by the attorney for the opposition during the Planning Board hearing, the Applicant's land planner, Mark Ferguson, also addressed this issue. He testified that the TCP2 noting forest retention area on Lot 12 was placed on the property . . . "only as a placeholder. The planning intention had always been to remove the trees on this subject property". (Transcript p. 69). Further, the TCP1 approved with the instant Conceptual Site Plan was simply the initial review of woodland preservation required for this particular project. Resolution of all

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offsite forest conservation was to occur as part of the review and approval of the TCP 2 for this project. As noted before, amendments to Tree Conservation Plans are expressly permitted by Section 25-119 of the Prince George's County Code.

It should also be noted that the TCP 2 referenced by the opposition which was approved for Outparcel B (TCP 2-116-01) was approved as part of a Sediment Control Permit (SC-58-02) and not as a land development approval. The intent was to authorize the placement of a stockpile of dirt on the southwest side of Manning Road.

Clearly, the approval by the Planning Board of the TCP 1 for this project did not occur in violation of the Woodland Conservation Ordinance. Notwithstanding that fact, as noted above, the overall Manokeek and Signature Club development contains 343.65 acres. As confirmed by the Environmental Planning Section in its referral memorandum, there are no fewer than ten Tree Conservation Plans which had previously been approved. In order to provide full clarity as to the history of those Tree Conservation Plans and the temporary designation of Lot 12 as a forest retention area, we suggest that a limited remand to the Planning Board is in order to clarify the history of the prior Tree Conservation Plans and impacts on the overall development, including Lot 12. Staff of M-NCPPC and the Planning Board can provide further clarity which will dispose of this issue at the administrative level. For that reason, we request the case be remanded to the Planning Board.

RESPONSE TO REMAINING EXCEPTIONS RAISED BY COUNSEL FOR THE OPPOSITION

While we request that the case be remanded to address the issue noted above, it remains necessary to respond to numerous other exceptions which are alleged by the opposition.

2) THE PLANNING BOARD'S DECISION WAS NOT ARBITRARY AND CAPRICIOUS

Transportation Adequacy

One of the required findings for the approval of a Conceptual Site Plan relates to transportation adequacy. If the property in question was rezoned through a comprehensive rezoning, Section 24-546(d)(9) of the prior Ordinance requires that the Planning Board find transportation facilities will be adequate to carry anticipated

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traffic from the development. The opposition argues that one of the intersections the Applicant was charged to analyze fails in the PM peak hour. The opposition then argues that this failure prevents the Planning Board from finding that adequate transportation facilities will be provided. That argument is erroneous and unsupported by the evidence.

The Applicant's transportation engineer, Lenhart Traffic Consulting, prepared a Traffic Impact Analysis ("TIA") bearing a date of November 7, 2023. The analysis was updated on May 23, 2025. The updated version was considered by staff of M-NCPPC in preparing their staff report and by the Planning Board. It is important to note that Lot 12 was the subject of a prior approved Preliminary Subdivision Plan. Pursuant to that Plan, certain road improvements were required and the development of Lot 12 was provided a trip cap of 124 AM peak hour trips and 524 PM peak hour trips. The Applicant was entitled to consider those trips vested since the road improvements required by the prior Preliminary Subdivision Plan have been made. (TIA, p.4). Pursuant to a scoping agreement entered into with staff, the Applicant was required to analyze eight different intersections. When considering traffic on the road, an annual growth rate, trips to be generated by approved but unbuilt developments and trips to be generated by this project, all of the intersections will operate adequately with the exception of the intersection of MD 210 and MD 373. Even that intersection passes in the AM peak hour, but it fails in the PM peak hour. However, with development of the Property as proposed in this case, the PM peak hour, while failing, actually operates better than it did under the prior approved trip cap. (TIA, p. 17) Further, that intersection currently fails before any background traffic is applied (Staff Report, p. 21 and Resolution, p. 18-19). Given this fact, the Lenhart TIA concluded that no off-site intersection improvements should be required and that transportation facilities will be adequate. Lenhart also concludes that this issue will be further discussed at the time of Preliminary Subdivision Plan, when adequacy of transportation is analyzed in detail.

Mr. Lenhart also testified before the Planning Board when it considered the instant CSP. The Subdivision Regulations authorize findings of adequacy by mitigating traffic on certain roadways which are deemed to be impacted substantially by traffic from outside of Prince George's County. (See Section 24-124(a)(6) of prior Subdivision Regulations). MD 210 is one of those roadways that qualifies for mitigation. Under mitigation, adequacy can be

determined by making a roadway improvement which addresses 150% of the site's impact on a particular intersection. Mr. Lenhart testified that he did not believe mitigation should be required in this instance. However, if required, he identified a mitigation improvement which would mitigate 300% of the site impact on the intersection of MD 210 and MD 373. (Transcript, 60-61). Consequently, adequate transportation facilities will exist to accommodate the proposed development. Further, it must be borne in mind that the discussion of transportation adequacy at the time of the approval of a Conceptual Site Plan is different from the determination of adequate public facilities required at the time of Preliminary Subdivision Plan. At that time, the analysis is much more thorough.

Compliance With Prior Conditions of Approval

As noted earlier, Lot 12 was originally approved for 157,000 feet of commercial development pursuant to the approval of Conceptual Site plan CSP-99050. One of the conditions attached to the approval of that Conceptual Site Plan required that the commercial component include a minimum of 10,000 feet of office space. (See Resolution, p. 3). CSP-99050 did not include Outparcel B. Since Outparcel B was to be added to this development, the original Conceptual Site Plan CSP - 99050 could not be amended to include Outparcel B due to the prohibition in Section 27-1704(a). For that reason, the Applicant determined to file a new Conceptual Site Plan. That plan was assigned the number CSP-23002. As the Planning Board Resolution notes, the current application was filed and reviewed as a new CSP. Consequently, the prior condition attached to CSP-99050 requiring the commercial component to include a minimum of 10,000 feet of office space is not applicable to CSP-23002. Therefore, the opposition assertion that the development of the subject property include 10,000 feet of office space is an error. The same holds true for the opposition's assertion regarding Landscape Manual requirements which were applicable to CSP-99050.

3) THE PLANNING BOARD DID NOT ERR WHEN IT CONCLUDED THAT CSP-23002 IS ELIGIBLE FOR REVIEW UNDER THE PRIOR ZONING ORDINANCE

The opposition argues that there are only two scenarios under which an applicant may apply for development utilizing the prior Zoning Ordinance pursuant to the Transitional Provisions. The opposition states use of the prior Zoning Ordinance is available for

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applications pending prior to the effective date of the new Zoning Ordinance (Section 27-1703) or projects which had received development or permit approval under the provisions of the prior Zoning Ordinance (Section 27-1704). The opposition correctly states that Section 27-1704 of the Transitional Provisions provides that a Conceptual Site Plan may not increase the land area subject to such approved Conceptual Site Plan. However, that is not what has occurred in this case.

Lot 12 was subject to and approved as a part of CSP-99050. That CSP included three development areas (Pods 1,2 and 3). Outparcel B was not within any of those Pods. Pod 3 consisted of what is now Lot 12. Outparcel B was the subject of its own Preliminary Subdivision Plan and Final Plat of Subdivision. It was thereafter zoned to the M-X-T Zone in 2006 pursuant to the approval of Zoning Map Amendment A-9960-C. Therefore, Outparcel B received its own entitlement approvals pursuant to the prior Zoning Ordinance. It too would qualify under section 27-1704 to use the prior Zoning Ordinance. CSP-23002 includes both Lot 12 and Outparcel B. This Conceptual Site Plan, if approved, will "supersede CSP-99050." See Resolution, p.5). Finally, it should be noted that CSP-23002 also qualifies to be reviewed and approved under the prior Zoning Ordinance pursuant to section 27-1900 et. seq. Those sections, as a matter of policy, allowed any development to utilize the prior Zoning Ordinance for a period of three years after the effective date of the new Zoning Ordinance. The new Zoning Ordinance became effective on April 1, 2022. Thus, any property could be entitled using the prior Zoning Ordinance at their election until April 1, 2025. CSP-23002 was accepted for processing and reviewed on February 26, 2024. (See Staff Report, cover sheet p. 1 and p. 3). Thus, it was filed and accepted during the three year period when any property owner could, at its election, utilize the prior Zoning Ordinance. That is exactly what the Applicant did in this case. Without question, CSP-23002 is eligible for review and approval under the provisions of the prior Zoning Ordinance.

4) THE PLANNING BOARD'S RESOLUTION IS NOT LEGALLY DEFICIENT

The Correct Property is Described in the Resolution

Counsel for the opposition suggests that the case should be remanded to the Planning Board because the Planning Board's Resolution of Approval "describes the wrong property". This allegation is incorrect when the totality of the record which was

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before the Planning Board and in which the opposition participated is considered. The opposition notes that page 1 of the approval Resolution (PGCPB No. 2025-057) at paragraph 2 describes the property forming the subject matter of the application as "property located on the east side of Hazelwood Drive, approximately 1,500 feet north of its intersection with MD 458 (Walker Mill Road)". The Applicant does not dispute that this language appears on page 1 of the Resolution. However, when reviewing the Resolution in its entirety as well as the record in its entirety, it is clear this was simply a clerical error. Paragraph 3 on page 2 of the Resolution describes the location of the subject property as being Tax Map 161, Grid E-2. That paragraph goes on to note geographically that "the site is located in the northeast quadrant of the intersection of MD 228 (Berry Road) and Manning Road East. That is indeed the Property. Further, paragraph 4 also found on page 2 of the Resolution describes the location of the subject property as being bound by Manning Road East, a development of 76 townhouses called Addition to Signature Club at Manning Village, and to the north and northeast by single family detached homes in the R-R Zone. Under no circumstances could that description of surrounding uses relate to property located on Hazelwood Drive near its intersection with Walker Mill Road. Further, the Resolution of approval is replete with information describing prior approvals (Resolution, p. 2-4). In addition, the underlying case number for the project (CSP-23002) could also never apply to Property located on Hazelwood Drive. Also, the application form filed with the case clearly and accurately describes the Property. The Statement of Justification filed in support of the application does the same. All of the referrals accurately describe the location of the Property. The Staff Report published by M-NCPPC also clearly describes the Property and the surrounding uses (Staff Report, p. 5, paragraphs 3 and 4). In short, the record is replete with evidence clearly confirming the actual property forming the subject matter of this application. This is also borne out by testimony provided by some of the opposition parties. The reference to Hazelwood Drive is clearly nothing more than a clerical error.

The Tree Conservation Plan conforms to all required criteria

The opposition argues that the Planning Board failed to find conformance of the Tree Conservation Plan with the Green Infrastructure Plan. They cite to Section 25-121(a)(5) of the County Code. However, that section does not require an express finding by the Planning Board. Rather, it simply requires that a TCP conform to

the Countywide Green Infrastructure Plan and related subsequent Master Plan criteria. The provision cited by the opposition only requires a Planning Board finding when there have been subsequent events rendering planned recommendations no longer appropriate. In this case, the Community Planning Division referral analyzed and found conformance with the provisions of the General plan, the Master Plan and the 2005 Green Infrastructure Plan. Further, the Environmental Planning Section also reviewed and found the Tree Conservation Plan to be in conformance with the Woodland Conservation Ordinance. Given these findings contained in the record, and further given the articulated requirements for approval of the TCP, there was no need or requirement as set forth in Subtitle 25 for the Planning Board to make an express finding on this issue.

Similarly, the Tree Conservation Plan as approved does not violate priority retention area requirements of Subtitle 1, of the Natural Resources Article of the Annotated Code of Maryland. The opposition alleges that Section 5-1607(c)(3)(i) requires approval of either the state or the local authority prior to disturbing "contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site". Initially, it should be noted that these provisions of the State Code apply to a "public or private subdivision plan or application for a grading or sediment control permit". (Natural Resources Article, Section 5-1602(a)-titled Applicability of Subtitle). A Conceptual Site Plan is neither of those. Also, there is no evidence in the record that the Property is the largest undeveloped or most vegetated tract of land or that it abuts such a tract of land. In fact, the Property abuts residential lots or parcels improved with dwellings. There is no evidence that such abutting properties are undeveloped or most vegetated. Finally, as the record demonstrates it was always intended that prior designations of forest retention on the Property would be temporary in nature as it was always contemplated that the Property would be developed and that off site easements would be obtained.

The Resolution Explicitly Finds That the Proposed Development Pursuant to CSP-23002 Will Be Compatible With Existing and Proposed Development In the Vicinity.

Section 27-546(d) of the prior Zoning Ordinance requires the Planning Board to make certain additional findings in order to approve a CSP in the M-X-T Zone. One of these findings, Section 27-546(d)(4), requires a finding that "the proposed development is

compatible with existing and proposed development in the vicinity". It should be noted that the cited provision is one of nine separate findings. The opponents contend the Planning Board failed to make this finding. They allege that the Planning Board's analysis and conclusion with regard to this finding is nothing more than "broad conclusory statements or boilerplate resolutions". (Exceptions, p. 8). This allegation is without merit. The Planning Board's finding of compatibility must be viewed in context with all of the requirements of Section 27-546(d). It must also be viewed within the context of the very Purposes of the M-X-T Zone. The M-X-T Zone by definition requires a mix of uses. This mix is spelled out in further detail in the Purposes of the M-X-T Zone as set forth in Section 27-542 of the prior Zoning Ordinance. One of the required findings of Section 27-547(d) is that the proposed development will be in conformance with the Purposes of the Zone. There are ten different Purposes and many of these emphasize and support the requirement for a development in the M-X-T Zone to include a mix of uses. These include such Purposes as: to promote effective and optimum use of transit and reduction of automobile use by locating a mix of residential and nonresidential uses in proximity to one another (Section 27-542(4)), to encourage a horizontal and vertical mix of land uses (27-242(6)), to promote optimum land planning with greater efficiency through the use of economies of scale (Section 27-542(8)), to permit a flexible response the market (Section 27-542(9)), and to allow freedom of architectural design to provide excellence in physical, social and economic planning (Section 27-542(10)). Another purpose of the M-X-T Zone is also to implement recommendations of the General Plan or Master Plans. The 2013 Master Plan recommends "mixed use" on the Property. The Planning Board specifically found that the development proposal in this case to develop the Property with up to 300 multifamily dwelling units and up to 12,600 square feet of commercial/retail space is compatible with the Master Plan recommendation. The Planning Board found that the proposal conforms to the vision of the 2013 Master Plan. (See Resolution, p. 10-13).

Contrary to the allegations of the opposition, the Planning Board did make specific factual findings as to how the development proposal in this case is compatible with existing and proposed development in the vicinity. Specifically, the Planning Board found that residential units within both the Signature Club development and the Addition to Signature Club, both of which are part of the overarching development, will be compatible with multifamily dwelling

units and commercial uses proposed in the subject application. The Planning Board further found that the provision of multifamily units "will offer additional housing options and opportunities for existing and future residents". (Resolution, p. 14). This finding is similar to the Technical Staff's finding with regard to this purpose. (Technical Staff Report, p. 16). It is entirely acceptable for the decision making authority (in this case the Planning Board) to adopt as its own, the findings and conclusions of other bodies as long as those bodies make conclusions based upon facts. (Caleo v. County Council of Prince George's County, 109 Md. App. 431, 675 A.2d 148 (1996). The opposition cites Bucktail, LLC v. Cty. Council of Talbot Cty., 352 Md. 530, 553 (1999). In the instant case, the Planning Board's findings are clearly factual in nature. At earlier points in the Planning Board Resolution, the Planning Board notes that Pod 2 of the Signature Club development which immediately abuts the Property was approved for the development of 95 single family detached and 218 single family attached residential units on Lot 11. (Resolution, p. 3-4). The single family detached homes are two stories and the townhomes are three stories. Counsel for the opposition states that the multifamily uses being proposed in this case will be five stories in height. (Exceptions, p. 8). This representation is absolutely incorrect. During the course of the hearing before the Planning Board, counsel for the Applicant proffered that the multifamily buildings would be a mix of three and four stories and that no building would exceed four stories in height. It was specifically noted that townhouses which have been built at Signature Club immediately abutting the Property are three stories in height. (Transcript, p. 20).

There is more than sufficient factual evidence both in the record and in the Planning Board Resolution confirming that the proposed development of the Property which will include three and four story multifamily buildings and 12,600 square feet of commercial space, will be compatible with existing and proposed development in the vicinity.

5) THE PLANNING BOARD'S APPROVAL OF THE VARIANCE TO REMOVE FOUR SPECIMEN TREES IS IN STRICT CONFORMANCE WITH ORDINANCE REQUIREMENTS AND IS SUPPORTED BY SUBSTANTIAL EVIDENCE

There are 10 specimen trees located on and in the immediate vicinity of the Property. The Applicant requested authorization to remove 4 specimen trees. One is located opposite the proposed

entrance to the site while three others are located along the perimeter. Variances to remove specimen trees are expressly permitted under Subtitle 25 of the Prince George's County Code. Specifically, Section 27-119(d) sets forth standards to be reviewed in determining whether or not to authorize removal. The Planning Board is authorized to consider a variance to remove specimen trees as part of its review and approval of a Tree Conservation Plan. The specific criteria are set forth in Section 25-119(3) of Subtitle 25. The Applicant's civil engineer, VIKI, submitted a Justification in support of the variance in this case. That justification was dated January 23, 2024 and was revised on May 23, 2025. A copy of that Justification appears in the record. The Justification thoroughly analyzed all criteria for the approval of a specimen tree variance and cited factual support for each criterion. A summary of the criteria follows:

A) Special conditions peculiar to the property which cause unwarranted hardship

Here the Applicant noted that one of the specimen trees was located near the main entrance into the site and would need to be removed to provide sufficient access. The remaining trees, while located along the perimeter of the site, are near the limit of disturbance. Avoiding any disturbance to the root zone would create unwarranted hardship by significantly reducing the area of the property available for development. The Justification analyzed the purposes of the M-X-T Zone and explained how meaningful development of the property would be necessary in order to meet those purposes, including ensuring economic viability of the project and creating full development of the property to encourage meaningful development to satisfy needs of future residents.

B) Depriving the applicant of rights commonly enjoyed by others in similar areas

The Applicant noted that the property was being developed under a mixed-use zoning classification. Buildings proposed for uses expressly authorized in the zone could not be realized without removing the four specimen trees, thus compromising the Applicant's ability to implement the M-X-T Zone reasonably and comprehensively.

C) The variance will not confer a special privilege on the applicant

The Justification notes that the uses being proposed are expressly permitted in the Zone. It is also noted that development of the property is subject to many other requirements which impact the developable area of the land in question. Allowing the Applicant to realize a reasonable development while implementing and observing other required development criteria and regulations simply allows the Applicant a development right available to others as well.

D) Is the variance based on conditions or circumstances caused by the applicants actions

The Justification noted that conditions unique to the property impacted its development potential. Specifically, the location of the existing entrance along with topographic conditions which cause the property to slope eastward to an existing stormwater detention pond substantially impact the layout and development opportunities for the property. These factors impact the opportunity for the balance of the site. Further, the Applicant inherited the existing conditions on the property.

E) Does the variance arise from conditions related to land or buildings on another property

The Applicant states that impacts on other properties do not create the need for the variance.

F) Will water quality standards be violated as a result of the variance

The Applicant noted that approval of the variance would not result in a violation of any state water quality standards. It was noted that all grading and site design will occur in strict accordance with approved stormwater management facilities which will ensure and maintain water quality.

The specimen tree variance in this case was reviewed by the Environmental Planning Section of M-NCPPC. Staff also analyzed each criterion governing the approval of the variance. In general, staff agreed with the justifications advanced by the Applicant and frequently added further factual justification. One such additional Justification related to the fact that originally, there were no specimen trees on the property. Rather, they have grown as a part of natural generation. Staff also agreed with the impact of grading to

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the site and the development necessary to meet the goals of the M-X-T Zone. Staff agreed the need for the variances was not occasioned by actions of the Applicant. They further agreed that water quality would not be impacted due to the approval of sediment and erosion control plans and the stormwater management plan. (See Environmental Section Referral of May 30, 2025). The Staff Report also reviewed each of the criteria for the variance and set forth facts citing how each criterion was met and satisfied. (Staff Report, p. 34-38). Finally, the Planning Board, after reviewing all the information provided by the Applicant, Environmental Planning and the Technical Staff Report approved the variance. The Planning Board's Resolution of approval contains specific factual analysis on each criterion, some of which incorporates information provided by the Applicant and staff. (Resolution, p. 32-36). The facts of this case and the specific findings contained in the Planning Board Resolution clearly constitute substantial evidence supporting the grant of the specimen tree variance.

The Planning Board did follow its rules of procedure during the hearing in this case.

Counsel for the opposition alleges that the Planning Board failed to follow its own Rules of Procedure by only allowing her to speak for five minutes (Exceptions, p. 23). In actuality, counsel for the opposition only asked to speak individually for 5 minutes. (Transcript, p. 24). Counsel further complains that she was not allowed to call witnesses. Yet, at the outset of the Planning Board hearing counsel for the opposition announced that she was representing only two persons, Carolyn Keenan and Jordan Eberst. (Transcript, p. 25). Each could have testified if they so desired. The entire transcript of the Planning Board hearing consists of 101 pages. Witness testimony consisted of approximately 51 pages. Eleven witnesses testified in opposition. Their testimony comprised approximately 30 pages. Testimony from two witnesses from the Applicant's team comprised approximately 21 pages in the Transcript. Much of the testimony of the Applicant's two witnesses consisted of cross examination by counsel for the opposition. Clearly, the Planning Board conformed to its Rules of Procedure by allowing all parties ample opportunity to present their views concerning the matter under consideration.

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CONCLUSION

Based on the foregoing, the Owner and Applicant hereby request that the Appeals and Exceptions filed by opposition parties be denied and dismissed and that the case be Remanded to the Planning Board for the limited purpose of clarifying the temporary designation of the Property as a forest retention area within the Tree Conservation Plan history.

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A handwritten signature in blue ink, appearing to read 'EGH', is written over a circular blue stamp.

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egibbs@gibbshaller.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of October, 2025, a copy of this Response to Exceptions and Request for Limited Record was mailed electronically and by first-class, postage prepaid, to:

Donna J. Brown
Clerk of the Council
Prince George's County Council
1301 McCormick Drive
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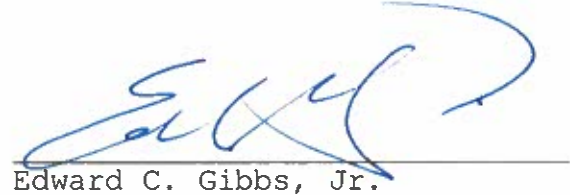
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And by first class U.S. Mail, postage prepaid, to all persons or entities on the attached list.



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PARTY OF RECORD: 32
PB DATE: 7-31-2025

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