

PRINCE GEORGE’S COUNTY COUNCIL SITTING AS THE DISTRICT COUNCIL

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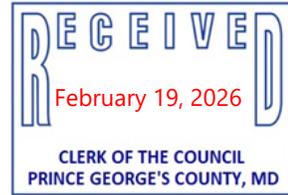
IN THE MATTER OF:

*

Signature Club East
340 E. Manning Road
Accokeek, MD 20607

CSP-23002 and TCP1-052-97-03

*



* * * * *

WRITTEN EXCEPTIONS AND REQUEST FOR ORAL ARGUMENT

Signature 2013 Commercial, L.L.C. (“Applicant”)¹ submitted an application for the approval of a Conceptual Site Plan (CSP-23002), a Type I Tree Conservation Plan (TCP1-052-97-03), and a Forest Conservation Act Variance (“FCA Variance”) to develop up to 300 multifamily dwelling units and 12,600 square feet of commercial/retail space on a 16.90-acre property at 340 E. Manning Road, Accokeek, Maryland 20607 (“Subject Property”). The Planning Board approved CSP-23002, TCP1-052-97-03, and the associated FCA Variance (collectively, “Development Applications”) in Resolution 2025-057 dated July 31, 2025 (“Resolution”). On October 28, 2025, the District Council voted to remand the Planning Board’s approval of the Development Applications. On January 15, 2026, the Planning Board again approved the Development Applications in Amended Resolution 2025-057(A) (“Amended Resolution”). Notice of the Planning Board’s decision on remand was mailed to all Persons of Record on January 22, 2026.

Carolyn Keenan, Jordan Eberst, and Victor Christiansen (“Citizen-Protestants”), by and through their attorney, Alex Votaw, appeal the Planning Board’s decision to approve the Development Applications, file these exceptions, and request oral argument before the

¹ WP East Acquisitions, LLC was the original applicant.

Prince George’s County Council, Sitting as the District Council (“District Council”). Citizen-Protestants are Persons of Record and opposed the Development Applications before the Planning Board on remand.

Citizen-Protestants incorporate by reference all of the prior arguments and questions previously presented to the District Council and the Planning Board as they have yet to be addressed by the District Council. Citizen-Protestants offer the following additional comments to highlight a few key issues.

QUESTIONS PRESENTED

- 1. Whether the Planning Board erred legally when it approved TCP1-052-97-03?**
- 2. Whether the Planning Board erred legally when it approved the Applicant’s FCA variance?**
- 3. Whether the Planning Board’s Amended Resolution complies with the District Council’s Order of Remand?**

STANDARD OF REVIEW

When the District Council reviews the Planning Board’s decision to approve a Conceptual Site Plan (“CSP”), the District Council exercises appellate, not original, jurisdiction. *See Cty. Council of Prince George’s Cty. v. Zimmer Dev. Co.*, 444. Md. 490, 569–70 (2015).

When exercising appellate jurisdiction, the District Council must first ask, as a threshold matter, whether the Planning Board’s Resolution meets the minimum requirements for articulating the facts found, the law applied, and the relationship between the two without need for reference to the record? The District Council “may not uphold the agency order unless it is sustainable on the agency’s findings and for the reasons stated by

the agency” in the agency’s written decision. *United Steelworkers of Am. AFL-CIO, Local 2610 v. Bethlehem Steel Corp.*, 298 Md. 665, 679 (1984); *see also Relay Imp. Ass’n v. Sycamore Realty Co.*, 105 Md. App. 701, 714 (1995). If the Planning Board’s Resolution fails to adequately articulate the basis of the Planning Board’s decision, the District Council must vacate the Resolution and remand for further proceedings.

Second, if the Planning Board’s Resolution is legally sufficient, the District Council asks whether the Planning Board premised its decision on an erroneous conclusion of law. *See Potomac Valley Orthopaedic Assocs. v. Md. State Bd. of Physicians*, 417 Md. 622, 635–36 (2011). The District Council does not afford any deference to the Planning Board’s conclusions of law and instead reviews the Planning Board’s conclusions of law *de novo*. *See, e.g., Hayfields, Inc. v. Valleys Plan. Council, Inc.*, 122 Md. App. 616, 629 (1998) (quoting *People’s Counsel v. Prosser Co.*, 119 Md. App. 150, 167–68 (1998)).

Third, if the Planning Board premised its decision on correct conclusions of law, the District Council asks whether the record includes substantial evidence to support the agency’s findings or whether the Planning Board’s decision is arbitrary or capricious. *See Layton v. Howard Cty. Bd. of Appeals*, 171 Md. App. 137, 173–74 (2006). If the record lacks substantial evidence to support the Planning Board’s decision or if the Planning Board’s decision is arbitrary or capricious, the District Council must reverse the Planning Board’s decision.

EXCEPTIONS

I. The Planning Board erred legally when it approved TCP1-052-97-03.

Ordinarily, a development proposal needs only meet the Forest Conservation requirements for the specific project being proposed. Here, however, the situation is more complicated because the existing woodland on the Subject Property was previously designated for preservation by earlier phases of the overall development.

The Subject Property contains 13.32 acres of woodland and consists of two lots— Lot 12 and Outparcel B. Amend. Resol. 32. One prior TCP (TCP2-039-01-03) designated 9.60 acres of woodland on Lot 12 as a preservation area. Another prior TCP (TCP2-116-01) designated 3.9 acres of woodland on Outparcel B as a preservation area.

The Applicant's current TCP (TCP1-052-97-03) proposes to remove all of the woodland on the Subject Property and provide only 1.61 acres of off-site mitigation. Technical Staff Report ("TSR") 6.

The Applicant argues that the Development Applications do not need to account for the woodland preservation required in prior phases of the development. Citizen-Protestants argue that the Applicant must account for the fact that the prior Tree Conservation Plans ("TCPs") designated the woodland on the Subject Property for preservation.

The Planning Board seemingly concedes that the Applicant does need to account for the woodland preservation required in prior phases of the development. *See* Amend. Resol. 32. However, the Planning Board's decision to approve TCP2-039-01-03 is still legally erroneous for the following reasons:

1. The Planning Board cannot approve a TCP that proposes to remove woodland designated for preservation.

The woodland areas on the Subject Property were previously designated as woodland preservation areas and were relied on by prior developments to satisfy the applicable woodland conservation thresholds. *See* Citizen-Protestants' Prior Written Exceptions 9 & 10, Exs. A & B; *see* Citizen-Protestants' Written Objections on Remand 8–11. No provision of the WCO allows the Applicant to remove woodland already designated as woodland preservation by prior developments. Thus, as a threshold matter, the Planning Board lacks authority to approve any Tree Conservation Plan that proposes the removal of the woodland preservation areas on the Subject Property.

Citizen-Protestants respectfully request that the District Council reverse the Planning Board's approval of the Development Applications because the woodland on the Subject Property cannot be developed as it was previously designated for woodland preservation.

2. At minimum, the Planning Board must require a TCP to cure any violative effect caused by the removal of preservation areas.

Assuming *arguendo* that the Planning Board can approve a TCP that proposes to remove woodland designated for preservation, the Planning Board must, at minimum, require the TCP to cure its violative effect. *See* Citizen-Protestants' Prior Written Exceptions 9–12.

Here, TCP1-052-97-03 has the effect of rendering two prior developments violative of the WCO but does not cure its violative effect. *See* Citizen-Protestants' Prior Written Exceptions 9–12; *see* Citizen-Protestants Written Objections on Remand 8–11.

The Applicant, Technical Staff, and the Planning Board have previously argued that the woodland on the Subject Property was merely used as a placeholder to defer compliance to a later stage, and the Applicant is not required to cure the violative effect. *See, e.g.*, Amend. Resol. 43.

The District Council must reject this argument as it would essentially allow an applicant to defraud the County and avoid compliance with the WCO. The WCO sets forth a conservation threshold. If an applicant is able to preserve enough woodland onsite to meet or exceeds the threshold, then the applicant is allowed to replace woodland cleared at a 0.25:1 ratio. Conversely, if an applicant is not able to preserve enough woodland onsite to meet the threshold, then the applicant is required to replace the woodland cleared below the threshold at a 2:1 ratio.

Under the Applicant's interpretation of these requirements, an applicant would be allowed to temporarily preserve woodland that the applicant intends to remove at a later stage, to meet the conservation threshold and avail itself of the lower replacement ratio of 0.25:1—artificially reducing the amount of woodland required for offsite preservation. Then, under the Applicant's interpretation, an applicant could return several years later to develop the preserved woodland without accounting for the violative effect of removing that woodland.

Furthermore, this argument directly conflicts with Section 25-118 of the WCO. The WCO defines woodland temporarily preserved but ultimately intended for development as “woodland retained—assumed cleared.” WCO § 25-118(b)(77). Importantly, the WCO clarifies that woodland retained—assumed cleared must be calculated as cleared when

determining the woodland conservation requirement. *See id.* Conversely, the WCO defines “preservation” as “the protection of existing woodlands for the purpose of meeting the requirements of this Division.” WCO § 25-118(b)(60). Importantly, preservation areas, by definition, are areas used to satisfy the requirements at the time of approval cannot be used to defer compliance.

Here, the woodland on the Subject Property was not treated as woodland retained—assumed cleared which was calculated as cleared in the prior TCPs. Instead, the woodland on the Subject Property was specifically calculated as preserved to meet the conservation threshold and reduce the amount of off-site mitigation that would be required. As depicted below, the Woodland Conservation Worksheet for TCP2-039-01-03 shows 12.03 acres of Woodland Preservation:

Woodland Conservation Worksheet
for
Prince George's County

Zone:	M-X-T		
Gross Tract:	70.29		
Floodplain:	5.96		
Previously Dedicated Land:	0.00		
Net Tract (NTA):	64.33	0.00	0.00

*Include acreage in the corresponding columns for e

Property Description or Subdivision Name: **LOTS 11 & 12 MANCKEEK**

Is this site subject to the 1989 Ordinance? **N**

Reforestation Requirement Reduction Questions

Is this one (1) single family lot? (y,n) **N**

Are there prior TCP approvals which include a combination of this lot and/or other lots. (y,n) **N**

Is this a Mitigation Bank **N**

Break-even Point (preservation) = 20.19 acres

Clearing permitted w/o reforestation = 42.15 acres

Woodland Conservation Calculations:	Net Tract (acres)	Floodplain (acres)	Off-site Impacts (acres)
a Existing Woodland	62.34	5.96	
b Woodland Conservation Threshold (NTA) = 15.00%	9.65		
c Smaller of a or b	9.65		
d Woodland above WCT	52.69		
e Woodland cleared	48.59	0.23	0.20
f Smaller of d or e	48.59		
g Clearing above WCT (0.25 : 1) replacement requirement	12.15		
h Clearing below WCT (2:1 replacement requirement)	0.00		
i Afforestation Threshold (AFT) = 15.00%	0.00		
Woodland Conservation Required	22.23		

Woodland Conservation Provided:	(acres)	
Woodland Preservation	12.03	
Afforestation / Reforestation	0.00	
Area approved for fee-in-lieu	0.16	\$2,090.88
Credits for Off-site Mitigation on another property	10.04	
Off-site Mitigation being provided on this property	0.00	
Total Woodland Conservation Provided	22.23	

Area of woodland not cleared 13.75 acres
Woodland retained not part of requirements: 1.72 acres

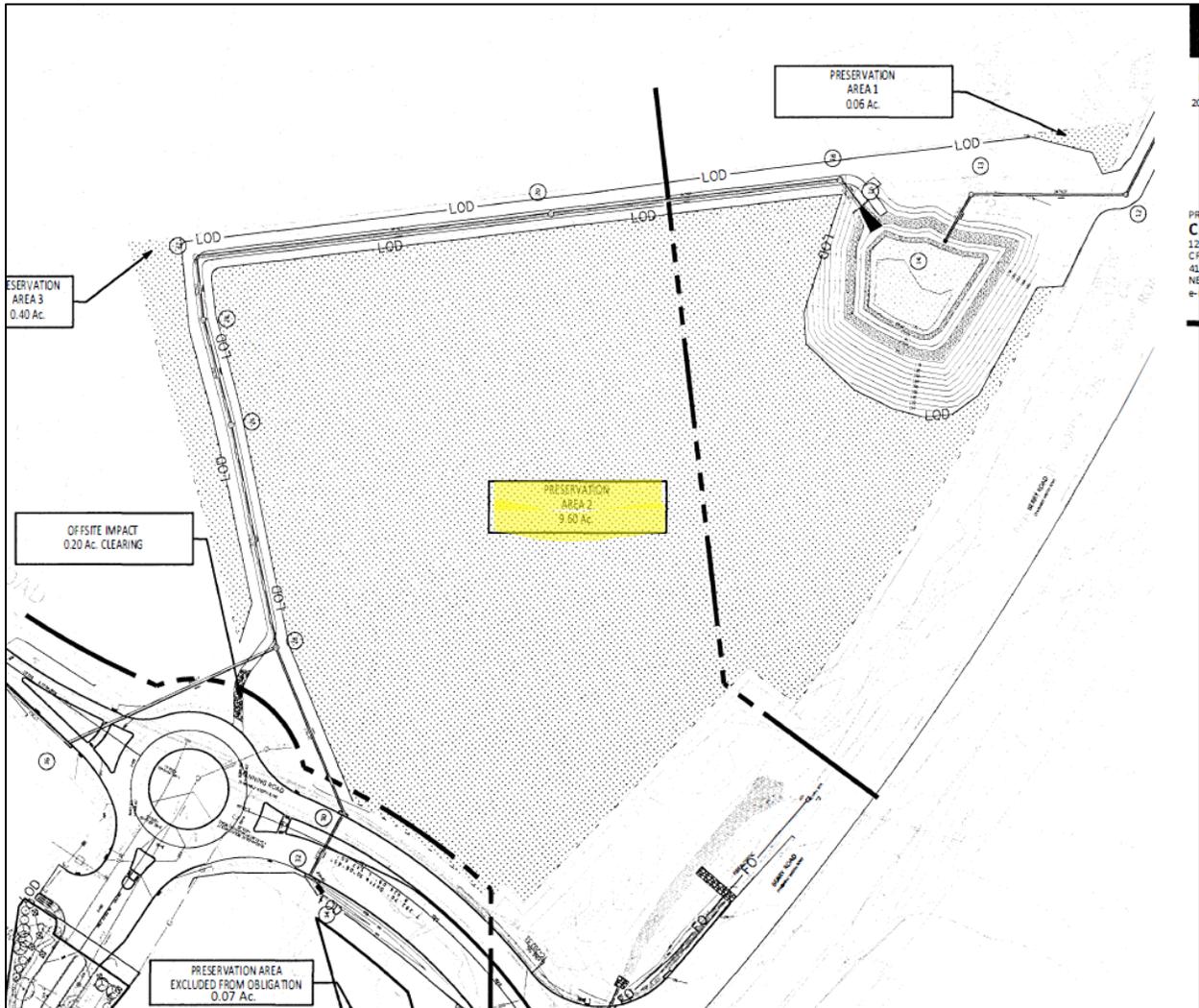
Prepared by: Steve Cook

Signed _____ Date _____

Citizen-Protestants' Prior Written Exceptions, Ex. A.

This TCP then designates Lot 12 as a 9.60-acre "Preservation Area" as shown

below:



Citizen-Protestants' Prior Written Exceptions, Ex. A.

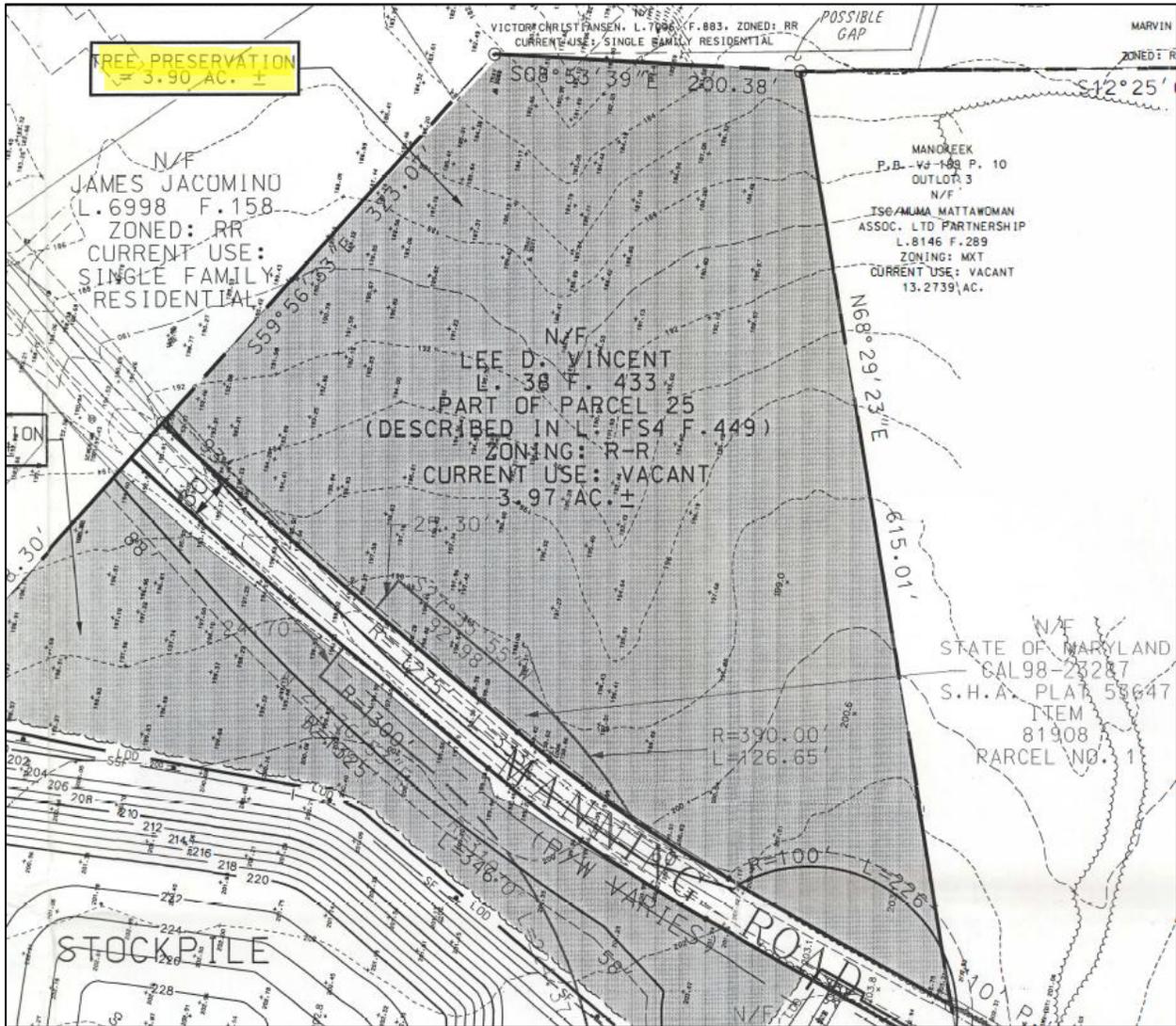
Similarly, TCP2-116-01 shows 6.50 acres of Woodland Preservation:

WOODLAND CONSERVATION WORKSHEET FOR NON - GOVERNMENTAL PROJECTS		
Zone:	<u>RR</u>	Owner: <u>TSC/MUMA MATTAWOMAN ASSOC. LTD. PARTSHIP.</u>
Gross Tract:	<u>12.54</u>	Address: <u>806 W. DIAMOND AVE.</u>
Floodplain:	<u>-</u>	<u>GAITHERSBURG, MD. 20878</u>
Previously Dedicated Land:	<u>-</u>	Telephone: <u>301-590-7318</u>
Net Tract:	<u>12.54</u>	Tax Map: <u>161, GRIDS D, E3 &4</u>
Subdivision/Block/Lot:	<u>PARCEL 25</u>	Permit#:
Woodland Conservation Calculations:		
Existing Woodland:		Net Tract (acres)
WCT (20% x Net Tract):		a. <u>12.54</u>
Smaller of a. or b.:		b. <u>2.51</u>
Woodland above WCT (a - b): 0 if less than 0:		c. <u>2.51</u>
Woodland Cleared:		d. <u>9.64</u>
Smaller of d. or e.:		e. <u>5.31</u>
Clearing below WCT (e - f): 0 if less than 0:		f. <u>5.31</u>
Replacement (f x 0.25):		g. <u>0.0</u>
(g x 2.0):		h. <u>1.33</u>
Afforestation: (if applicable)		i. <u>0.0</u>
(net tract x .2 - d), or		j. <u>0</u>
(net tract x .15 - a): 0 if less than 0:		k. <u>3.84</u>
Woodland Conservation Required: (a+h+i+j-g)		
Woodland Conservation Provided:	(acres)	
Woodland Preservation:	<u>6.50</u>	
Reforestation/Replacement:		
Afforestation:		
Area approved for fee-in-lieu:		<u>\$0.30*43,560=\$</u>
Off-Site Credits:		
Woodland Conservation Provided (must equal or exceed item m above):	<u>6.50</u>	and \$
Additional Woodland retained but not part of any requirements:	<u>0.25</u> acres.	
Plan Certified by:	<u>KEN DUINN</u>	
	<u>via LIEDERMAN SOLTESZ ASSOCIATES</u>	
	<u>4407 FORBES BOULEVARD SUITE B</u>	
	<u>LANHAM, MARYLAND 20706</u>	
	<u>301-794-7555</u>	
License #:	<u>MARYLAND R.J.A. No. 1074</u>	
<p>1 WCT is the Woodland Conservation Threshold as shown in Part 5 of the Prince George's County Woodland Conservation and Tree Preservation Policy Document.</p> <p>2 All entries in parentheses are mathematical formulas.</p>		

Citizen-Protestants' Prior Written Exceptions, Ex. B.

This TCP then identifies Outparcel B as 3.90 acres of tree preservation as shown

below:



Citizen-Protestants' Prior Written Exceptions, Ex. B.

Thus, the District Council must reject any argument that Lot 12 and Outparcel B were merely placeholders intended for development because these lots were designated for preservation and not as “woodland retained—assumed cleared.”

Moreover, as Citizen-Protestants described in detail on pages 9 through 11 of Citizen-Protestants' Written Objections to the Planning Board on Remand, the prior TCPs used the preservation of woodland on Lot 12 and Outparcel B to reduce the amount of offsite woodland credits required. The removal of the woodland on Lot 12 alone would have a violative effect of creating a 19.99-acre woodland conservation discrepancy with prior developments. The removal of the woodland on Outparcel B would have a similar violative effect.

At minimum, Citizen-Protestants request that the District Council require the Applicant to cure the violative effect of the Development Applications by purchasing the amount of off-site credits that would have been required if the woodland had been calculated as cleared when TCP2-039-01-03 and TCP2-116-01 were approved.

3. The Planning Board failed to articulate whether the Applicant took all reasonable efforts to provide onsite preservation.

As described in pages 5 through 6 of Citizen-Protestants' original Written Exceptions to the District Council, the Applicant failed to demonstrate, and the Planning Board failed to articulate, that the Applicant had taken all reasonable efforts to protect the onsite woodland.

Therefore, Citizen-Protestants respectfully request that the District Council require the Applicant to provide, at minimum, 1.78 acres of on-site woodland preservation to satisfy the conservation requirements for this individual application in addition to the aforementioned offsite credits to cure the TCP's violative effect.

II. The Planning Board erred legally when it approved the Applicant's FCA Variance.

The Applicant's FCA Variance does not satisfy any of the requirements of PGCC Section 25-119(d)(3) other than criteria (E).

Most glaringly, the Planning Board previously found that the Applicant satisfies Criterion (D) because the need to remove the specimen trees arises from circumstances created by the prior property owners. This is legally erroneous.

In Maryland, when title is transferred, it takes with it all the encumbrances and burdens that attach to title; but it also takes with it all the benefits and rights inherent in ownership. *If a predecessor in title was subject to a claim that he had created his own hardship, that burden, for variance purposes, passes with the title.* But, at the same time, if the prior owner has not self-created a hardship, a self-created hardship is not immaculately conceived merely because the new owner obtains title.

Richard Roeser Pro. Builder, Inc. v. Anne Arundel Cnty., 368 Md. 294, 319 (2002) (emphasis added).

The evidence in the record demonstrates that the need for the variance is caused by the Applicant or the prior property owners. To start, the eastern portion of the Subject Property "has an existing regional pond" that was installed by either the Applicant or prior owners to "serve[] the adjacent Addition to Signature Club subdivision, portions of Manning Road East, and the subject application Signature Club East development." Resol. 2025-057 at 36. This pond restricts the development potential on the Subject Property and pushes the development closer to the specimen trees. If the pond was not located on the Subject Property, the Applicant could easily avoid impacts to the four specimen trees.

Thus, the request for the FCA variance is based on conditions or circumstances caused by the Applicant or the prior owners of the Subject Property.

Additionally, the Planning Board previously found that “no specimen trees were identified on the previously approved tree conservation plans” and that “these specimen trees have grown to specimen size over time.” Resol. 2025-057 at 33. The record also shows that a large majority of the Subject Property was deliberately placed in a forest retention area. *See* Prior Backup 38–44, 53; *see* Ex. B; *see* Ex. C. Thus, the Applicant, or the prior owners of the Subject Property, took deliberate actions that created conditions that allowed the Specimen Trees to exist on the Subject Property.

Therefore, Citizen-Protestants respectfully request that the District Council deny the Applicant’s requested FCA Variance.

III. The Planning Board’s Resolution does not comply with the remand order.

In its Remand Order, the District Council provided that “on remand, the Board’s decision must be precise and clear on the *contested issues* raised by Opposition.” Remand Order 3 (emphasis in original). The District Council further provided that the

Board’s decision must also be precise and clear on the history of all Tree Conservation Plans and prior designation of Lot 12 as a forest retention area and the impact of each or same on the overall development of the property proposed in the CSP application before the District Council may conduct meaningful administrative appellate review.

Remand Order 3. The District Council then provided a list of nine additional issues on remand. Here, the Planning Board’s Amended Resolution fails to comply with the Remand Order.

In some instances, the Planning Board outright refused to address some of the contested issues raised by Citizen-Protestants before the District Council. *See* Amend. Resol. 41 (the Planning Board refusing to address whether the CSP conformed to the conditions of approval for CSP-99050 and refusing to address Citizen-Protestants' arguments regarding the FCA variance including the argument that the alleged hardships are entirely self-created).

In other instances, the Planning Board failed to provide sufficient justifications for its decision as requested by the District Council. For example, the Amended Resolution fails to "be precise and clear on the history of all Tree Conservation Plans and prior designation of Lot 12 as a forest retention area." *See, e.g.*, Amend. Resol. 32.

The Planning Board also failed to analyze whether the proposed development is compatible with existing and proposed off-site development. Instead, the Planning Board described that the applicant could use additional landscaping to screen adjoining properties from incompatible land uses. *See* Amend. Resol. 15. The Planning Board again failed to identify any development in the area that was four stories like the proposed apartment development. Instead, the undisputed evidence in the record demonstrates that all of the development in the vicinity is three stories or less.

Finally, the Planning Board failed to articulate whether Section 27-1704(a) of the New Zoning Ordinance contemplates the filing of a new CSP application to amend a previously approved CSP when the sole purpose of the new CSP application was to increase land subject to the previously approved CSP.

While Citizen-Protestants believe the District Council has sufficient information to deny the Development Applicants, in the alternative, Citizen-Protestants request that the District Council again remand the case back to the Planning Board to evaluate and articulate these issues.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Alex Votaw', written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of February 2026, a copy of the foregoing Exceptions and Request for Oral Argument was mailed electronically and by first-class, postage pre-paid, to:

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(By U.S. Mail Only)


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16503 CARIBBEAN WAY SUITE
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(CASE NUMBER: CSP-23002)

MRS.LEENADA SMITH-BRASHEARS
2007 MOSSY GREEN WAY
ACCOKEEK MD 20607 -3211
(CASE NUMBER: CSP-23002)