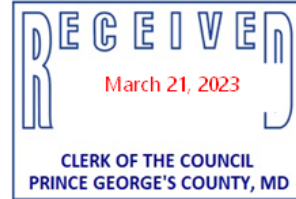


March 21, 2023

Andy Garrich
4506 Daly Drive, Suite 300
Chantilly, VA 20151



Re: Notification of Planning Board Action on
Specific Design Plan SDP-2203
Case Yergat

Dear Applicant:

This is to advise you that the above-referenced Specific Design Plan was acted upon by the Prince George's County Planning Board on **March 16, 2023**, pursuant to the Transitional Provisions of Section 27-1700 of the Prince George's County Zoning Ordinance and in accordance with the attached Resolution.

Pursuant to Section 27-528.01 of the prior Zoning Ordinance, the Planning Board's decision will become final 30 calendar days after the date of the final notice (**March 21, 2023**) of the Planning Board's decision, unless:

1. Within the 30 days, a written appeal has been filed with the District Council by the applicant or by an aggrieved person that appeared at the hearing before the Planning Board in person, by an attorney, or in writing and the review is expressly authorized in accordance with Section 25-212 of the Land Use Article of the Annotated Code of Maryland; or
2. Within the 30 days (or other period specified by Section 27-291 of the prior Zoning Ordinance), the District Council decides, on its own motion, to review the action of the Planning Board.

(You should be aware that you will have to reactivate any permits pending the outcome of this case. If the approved plans differ from the ones originally submitted with your permit, you are required to amend the permit by submitting copies of the approved plans. For information regarding reactivating permits, you should call the County's Permit Office at 301-636-2050.)

Please direct any future communication or inquiries regarding this matter to Ms. Donna J. Brown, Clerk of the County Council, at 301-952-3600.

Sincerely,
James R. Hunt, Chief
Development Review Division

By: Dominique Lockhart
Reviewer

Attachment: PGCPB Resolution No. **2023-25**

cc: Donna J. Brown, Clerk of the County Council
Persons of Record

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board is charged with approval of Specific Design Plans pursuant to Part 8, Division 4 of the Zoning Ordinance of the Prince George’s County Code; and

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

WHEREAS, the subject property is within the Legacy Comprehensive Design Zone (LCD); and

WHEREAS, pursuant to Section 27-1704(b) of the Zoning Ordinance, projects which received development or permit approval prior to the effective date of the current ordinance may continue to be reviewed and decided in accordance with the Zoning Ordinance under which it was approved; and

WHEREAS, the District Council approved an amendment to the Basic Plan for the subject property on November 15, 2021; and

WHEREAS, an application was submitted by Andy Garrich, on behalf of Dream Finders Homes LLC, for approval of a specific design plan; and

WHEREAS, in consideration of evidence presented at a public hearing on March 9, 2023, regarding Specific Design Plan SDP-2203 for Case Yergat, the Planning Board finds:

1. **Request:** This application requests approval of a specific design plan (SDP) for grading infrastructure only for a residential community.
2. **Development Data Summary:**

	EXISTING	APPROVED
Zones	LCD/MIO	Prior R-M/M-I-O
Use	Vacant	Grading Infrastructure
Gross Total Acreage	158.28	158.28
Floodplain Acreage	2.07	2.07
Net Acreage of SDP	156.21	156.21

3. **Location:** This site is located on the south side of Westphalia Road, approximately 3,750 feet west of its intersection with Ritchie Marlboro Road. The subject property is in Planning Area 78 and Council District 6.

4. **Surrounding Uses:** To the north of this site is Westphalia Road, with existing residential development in the Residential Estate (RE) Zone beyond; to the east is vacant land in the RE Zone; to the south is vacant land in the LCD Zone, and to the west is existing residential development in the Residential, Rural Zone.

5. **Previous Approvals:** The 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA) rezoned the subject property from the Residential-Agricultural (R-A) Zone to the Residential Medium Development (R-M) Zone. The 2021 *Approved Countywide Map Amendment* placed the subject property in the Military Installation Overlay/Legacy Comprehensive Design (MIO/LCD) Zones.

Zoning Map Amendment (Basic Plan) A-9973 and Comprehensive Design Plan CDP-0601, titled Woodside Village, established the original plan for the overall development of the subject site. On February 6, 2007, the Prince George's County District Council approved the Westphalia Sector Plan and SMA (Prince George's County Council Resolution CR-2-2007). A-9973, which requested rezoning from the prior R-A Zone to the prior R-M Zone, for approximately 381.95 acres of land, was included within the Council's approval of the SMA. In 2009, the District Council affirmed the Prince George's County Planning Board's approval of CDP-0601, for development of 1,422–1,496 residential units, including approximately 1,276 single-family dwelling units (attached and detached) and 220 multifamily dwelling units. However, no subsequent applications were ever submitted or approved pursuant to these approvals.

On November 15, 2021, the District Council approved A-9973-02 to amend the original Woodside Village basic plan, to separate approximately 158.28 acres consisting of Parcel 5 (Yergat property) and Parcel 19 (Case property) and establish a new basic plan specific to the property included in this SDP. A-9973-02 approved up to 661 dwelling units on the subject site, with 15 conditions.

On May 19, 2022, the Planning Board adopted a resolution of approval for CDP-0601-01 for Case Yergat (PGCPB Resolution No. 2022-50), to allow 516–531 single-family detached and 110–130 single-family attached residential dwelling units for a maximum of 661 dwelling units, subject to 7 conditions. On June 6, 2022, the District Council waived the election to review this case. CDP-0601-01 approved amendments to CDP-0601 applicable to this site only, in accordance with A-9973-02.

On July 21, 2022, the Planning Board approved Preliminary Plan of Subdivision (PPS) 4-21049 for Case Yergat (PGCPB Resolution No. 2022-86). The PPS approved 610 lots and 58 parcels for the development of 493 single-family detached and 117 single-family attached dwelling units, with 30 conditions.

6. **Design Features:** This site is roughly rectangular in shape, with bump outs in the southeast and southwest corners, and follows the Westphalia Road curves along the northern property line. Grading and the limits of disturbance are shown on the SDP together with existing environmental features on the property such as streams, floodplain, wetlands, and primary management areas

(PMAs). Details of layout and site design for this development will be determined when a full-scale SDP is submitted for review.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Map Amendment (Basic Plan) A-9973-Approved Zoning Change 6 of the Sectional Map Amendment/Sector Plan Development Concept 3 for Woodside Village in the 2007 Approved Westphalia Sector Plan and Sectional Map Amendment:** The larger property of approximately 381.95 acres was rezoned to the R-M Zone from the R-A-Zone by the Westphalia Sector Plan and SMA, as stated in Appendix 5, including five conditions. The District Council approved Basic Plan A-9973-02 (Zoning Ordinance No. 8-2021) on November 15, 2021, which supersedes the previous approval and conditions with 15 conditions, the following of which are relevant to this application for infrastructure only:

4. **Prior to approval of a SDP, if an archeological site has been identified as significant and potentially eligible to be designated as an historic site or determined eligible to the National Register of Historic Places, the applicant shall provide a plan for:**
a. Avoiding and preserving the resource in place; or b. Phase III Data Recovery investigations and interpretation.

None of the archeological sites identified in the Phase I and II investigations of the Case and Yergat properties were found to be intact or significant. No further archeological investigations are required on any of the archeological sites.

5. **If required, prior to approval of a SDP or the area including the cemetery and the archeological sites, the applicant's Phase III Data Recovery plan shall be approved by the Maryland-National Capital Park and Planning Commission staff archeologist. The Phase III (Treatment/Data Recovery) final report shall be reviewed for compliance with the Guidelines for Archeological Review before any ground disturbance or before the approval of any grading permits within 50 feet of the perimeter of the archeological site(s) identified for Phase III investigation.**

Phase III archeological investigations are not required on the archeological sites identified on the Case and Yergat properties.

6. **Prior to approval of a SDP, the applicant shall provide a plan for any interpretive signage to be erected (based on the findings of the Phase I, Phase II, or Phase III archeological investigations). The location and wording of the signage shall be subject to approval by the HPC and the Maryland-National Capital Park and Planning Commission staff archeologist. Installation of the signage shall occur prior to issuance of the first building permit for development.**

This condition is still outstanding and will be addressed with the SDP for architecture.

7. **Prior to approval of a SDP for the area including the cemetery and any archeological sites, the applicant shall provide for buffering of the Dunblane (Magruder/McGregor family) cemetery and/or any archeological site designated as an historic site, in compliance with the 2010 Prince George's County Landscape Manual.**

This condition is still outstanding and will be addressed with the SDP for architecture.

8. **Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements in the R-M Zone of the prior Zoning Ordinance.
 - a. Section 27-527 of the prior Zoning Ordinance sets forth the following criteria for approval of an SDP:
 - (a) **The applicant shall demonstrate to the Planning Board that, in the preparation of the Specific Design Plan, he has devoted adequate attention to building and landscape design, and engineering factors. The signatures of a qualified design team (including an architect, a landscape architect, and a professional engineer) on the Specific Design Plan shall be prima facie evidence that the respective factors within the scope of the signer's profession have been considered.**

This application is for grading infrastructure only and does not include any landscape, building, or architectural components. The application has been prepared by Soltesz, LLC and signed by the appropriate civil engineer in accordance with this requirement. This criterion will be evaluated again with future SDP applications.

- (b) **The Specific Design Plan shall include (at least) the following with all plans prepared at the same scale:**
 - (1) **A reproducible site plan showing buildings, functional use areas, circulation, and relationships between them; and in the V-M and V-L Zones, a three-dimensional model and a modified grid plan, which may include only the Village Proper, and any Hamlet, which incorporates plan concepts, spatial and visual relationships, streetscape, and other characteristics of traditional rural villages shall be provided prior to Planning Board and District Council review;**
 - (2) **Reproducible preliminary architectural plans, including floor plans and exterior elevations;**
 - (3) **A reproducible landscape plan prepared in accordance with the provisions of the Landscape Manual;**

- (4) **A Type 2 Tree Conservation Plan prepared in conformance with Division 2 of Subtitle 25 and The Woodland and Wildlife Habitat Conservation Technical Manual or Standard Letter of Exemption;**
- (5) **An approved Natural Resource Inventory; and**
- (6) **A statement of justification describing how the proposed design preserves or restores the regulated environmental features to the fullest extent possible.**

This SDP has been prepared to meet all the applicable drawing and plan submission requirements. It should be noted that the application is for infrastructure to support the ultimate development of the property. Thus, no architectural elevations are included at this time. Such plan details will be reflected in future SDP revisions.

- (c) **An applicant may submit a Specific Design Plan for Infrastructure in order to proceed with limited site improvements. These improvements must include infrastructure which is essential to the future development of the site, including streets, utilities, or stormwater management facilities. Only those regulations, submittal requirements, development standards, and site design guidelines which are applicable shall be considered. The Planning Board may also consider the proposal in light of future requirements, such that the plan cannot propose any improvements which would hinder the achievement of the purposes of the zone, the purposes of this Division, or any conditions of previous approvals, in the future. The Planning Board shall also consider any recommendations by the Department of Permitting, Inspections, and Enforcement and the Prince George's Soil Conservation District. Prior to approval, the Planning Board shall find that the Specific Design Plan is in conformance with an approved Type 2 Tree Conservation Plan and must also approve a Type 2 Tree Conservation Plan in conjunction with approval of the Specific Design Plan for Infrastructure.**

This SDP is for infrastructure only. Specifically, the application is approved for grading, clearing, and sediment control/stormwater management (SWM) devices for the property. All areas shown to be impacted by this application will ultimately be developed with residential units, in conformance with the approved CDP and PPS 4-21049 applicable to the property. A Type 2 tree conservation plan (TCP2) has been submitted for review with this application.

- b. Section 27-528 of the prior Zoning Ordinance sets forth the following criteria for approval of an SDP for infrastructure:

- (b) **Prior to approving a Specific Design Plan for Infrastructure, the Planning Board shall find that the plan conforms to the approved Comprehensive Design Plan, prevents offsite property damage, and prevents environmental degradation to safeguard the public's health, safety, welfare, and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge.**

This application conforms to the approved CDP and PPS 4-21049 applicable to Woodside Village, as mentioned herein. Further, the proposed layout and associated infrastructure will not be detrimental to the health, safety, or welfare of any resident or property owner within the County. The property does contain numerous regulated environmental features including streams, wetlands, and floodplain, all of which are contained within the PMA, as shown on the approved natural resources inventory (NRI) plan. Impacts are proposed to the PMA and stream buffer and were reviewed and approved at the time of PPS. No additional impacts are proposed with this application.

The proposed infrastructure is necessary to implement the planned residential development for the property, as reflected in the approved basic plan, CDP, and PPS. The ultimate development of the residential uses for the property will promote the health, safety, and welfare of the existing residents of the County by providing a variety of new living opportunities, as well as increasing the overall tax base for Prince George's County. In addition, all grading activities will be performed pursuant to a site development permit from the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) and will respect all approved limits of disturbance established for the property, thereby preventing off-site property damage and environmental degradation. The proposed grading will also incorporate all required sediment control devices to prevent any damaging drainage, erosion, or pollution discharge.

9. **Comprehensive Design Plan CDP-0601:** CDP-0601 for Woodside Village was approved by the Planning Board on July 31, 2008 (PGCPB Resolution No. 08-121) and affirmed by the District Council on February 9, 2009, for development of 1,422–1,496 residential units, including approximately 1,276 single-family dwelling units (attached and detached) and 220 multifamily dwelling units; however, no subsequent applications were ever submitted or approved pursuant to these approvals. An amendment, CDP-0601-01, was approved by the Planning Board on April 28, 2022 (PGCPB Resolution No. 2022-50), to allow 516–531 single-family detached and 110–130 single-family attached residential dwelling units for a maximum of 661 dwelling units, subject to 7 conditions. The following condition relates to this application:

5. At the time of specific design plan (SDP), the applicant shall:

- a. **Submit a list of sustainable site and green building techniques at the site, building, and appliance levels that will be used in this development.**

b. Provide the following site plan notes on the SDP:

“The applicant shall conform to construction activity noise control requirements, as specified in Subtitle 19 of the Prince George’s County Code.”

“The applicant shall conform to construction activity dust control requirements, as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.”

These required notes are within the general notes of the SDP.

Conformance with the remaining applicable conditions will be evaluated when a full-scale SDP is submitted for consideration.

10. **Preliminary Plan of Subdivision 4-21049:** On July 21, 2022, the Planning Board approved PPS 4-21049 (PGCPB Resolution No. 2022-86) for 610 lots and 58 parcels, for the development of 493 single-family detached and 117 single-family attached dwelling units, with 30 conditions. The following conditions are relevant to this application:

3. Development of this site shall be in conformance with the approved stormwater management concept plan (38822-2021-00) and any subsequent revisions.

An approved SWM concept plan (38822-2021-00) was submitted for review with the SDP. The approved concept plan shows the use of submerged gravel wetlands, bioswales, and ponds. The TCP2 shall be revised to be reflective of the locations of the proposed stormwater features and shall show outfalls and identify each feature with the same numbering system as shown on the approved stormwater concept.

26. Prior to acceptance of the specific design plan, a global stability analysis performed on critical slopes shall be submitted for both unmitigated and mitigated conditions, in compliance with Techno-gram 005-2018.

The revised slope analysis on Section DD was provided on February 7, 2023 and indicated that the grading and unit weight of the New Fill has changed, making this section qualify as passing. Prior to certification of the SDP, a final geotechnical report, including the revised slope stability analysis on Section DD which the slope stability had failed in the original geotechnical report, shall be submitted for review. The specifications of the materials and the construction of the New Fill shall be described on the final geotechnical report. The final geotechnical report shall be reviewed and approved by DPIE at the time of the grading permit process.

11. **2010 Prince George’s County Landscape Manual:** Per Section 27-528(a)(1) of the prior Zoning Ordinance, an SDP must conform to the applicable standards of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual). The proposed development of infrastructure

only is exempt from conformance with Section 4.1, Residential Requirements; Section 4.2, Requirements for Landscape Strips along Streets; Section 4.6, Buffering Development from Streets; and Section 4.7, Buffering Incompatible Uses, of the Landscape Manual because it does not propose a change in intensity of use, or an increase of impervious area for parking or loading spaces or gross floor area on the subject property. Future SDPs that include development of the site will have to be reevaluated for conformance with the applicable sections of the Landscape Manual.

12. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** CP2-048-2022 was submitted with this application and shows the overall 158.28-acre site with a net tract area of 156.21 acres. The site has 31.52 acres of existing woodland in the net tract area, and 2.07 acres of existing woodlands in the floodplain. The woodland conservation threshold is 31.24 acres (20 percent of the net tract area). The woodland conservation worksheet shows the removal of 16.23 acres of woodland on the net tract area, 0.41-acre of woodlands in the floodplain, and 0.32 acre off-site resulting in a woodland conservation requirement of 63.95 acres. Woodland conservation methods were evaluated using the criteria provided in Section 25-122(c), as follows:

(A) On-site preservation of connected woodland and wildlife habitat areas using woodlands in good condition with limited amounts of invasive or exotic plants.

On-site preservation has been utilized as a method to meet a portion of the conservation requirement, with 15.29 acres of the total 31.52 acres of non-floodplain forest (48.5 percent) approved for preservation.

(B) On-site afforestation/reforestation of connected planting areas using transplanted native stock, relocated from the site, or surrounding areas.

A total of 9.31 acres of on-site reforestation is proposed.

(C) On-site afforestation/reforestation of connected planting areas using native whip and seedling stock.

Native stock is being utilized to provide reforestation on-site.

(D) On-Site specimen, champion, and historic trees in good condition when the plan has been designed to ensure long-term survival.

From a total of 68 on-site specimen trees, the plan proposes to preserve 41 of the 68 specimen trees.

(E) On-site natural regeneration of connected areas in appropriate locations containing sufficient seed sources with appropriate protection mechanisms and long-term management.

This site is not suitable for natural regeneration. Public infrastructure, such as master-planned roads, SWM, and parks prevent this.

- (F) **Off-site afforestation/reforestation of connected planting areas using transplanted native stock, relocated from the site, or surrounding areas, in an approved woodland conservation bank.**

The subject property does not contain native stock worthwhile to transfer.

- (G) **Off-site afforestation/reforestation of connected planting areas using native whip and seedling stock in an approved woodland conservation bank.**

If an off-site tree bank, suitable for reforestation of connected planting areas using native whip and seedling stock, is available at the time of TCP2 approval, that option will be considered.

- (H) **Off-site preservation of connected woodlands in an approved woodland conservation bank.**

The remaining woodland conservation requirement will be met by purchasing 39.35 acres of off-site credits from an approved tree bank.

13. **Prince George's Country Tree Canopy Coverage Ordinance:** Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage on projects that require a grading or building permit for more than 5,000 square feet of disturbance. Conformance with the requirements of the Tree Canopy Coverage Ordinance will be evaluated when a full-scale SDP is submitted for consideration.

14. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows, and are incorporated herein by reference:

- a. **Community Planning**—The Planning Board has reviewed and adopts the memorandum dated January 5, 2023 (Bishop to Burke), which noted that the Westphalia Sector Plan and SMA rezoned the subject property from the R-A Zone to the R-M Zone, and the 2021 *Approved Countywide Map Amendment* placed the subject property in the MIO/LCD Zone.

Pursuant to Part 8, Division 4, Subdivision 2, of the prior Zoning Ordinance, master plan conformance is not required for this application.

- b. **Transportation Planning**—The Planning Board has reviewed and adopts the memorandum dated February 6, 2023 (Ryan to Burke), which provided an analysis of previous conditions of approval that have been incorporated in the findings above. The memorandum noted that the site has frontage on Westphalia Road (C-626), along its

northern boundary. In addition, the site is impacted by two master plan roads that traverse through the site. The location and design of these roadways, as well as the bicycle and pedestrian facilities, were depicted and approved with PPS 4-21049, as envisioned in the 2009 *Approved Countywide Master Plan of Transportation*, and will be used to evaluate future SDPs. Specific to the subject application, the location of SWM facilities has been strategically placed so as not to interfere with any of the planned roadways, which will ultimately serve the subject site. The Planning Board finds that the application meets master plan compliance regarding recommended roadways.

- c. **Subdivision**—The Planning Board has reviewed and adopts the memorandum dated February 2, 2023 (Vatandoost to Burke), which provided an analysis of previous conditions of approval that are incorporated in the findings of this resolution. In addition, the Planning Board found that the line type used for proposed outparcel boundary lines is not consistent and some of the property boundary lines are not described by the bearings and distances. A condition is provided herein, requiring the SDP to be revised to reflect a consistent boundary line type, and provide all property line bearings and distances.
- d. **Environmental Planning**—The Planning Board has reviewed and adopts the memorandum dated February 13, 2023 (Kirchhof to Burke), in which a review of the site’s environmental features and prior conditions of approvals was presented. The site has an approved natural resources inventory plan (NRI-158-05-03) which shows the existing conditions of the property. The TCP2 requires technical corrections, with conditions contained herein.

Specimen Trees

Section 25-122(b)(1)(G) of the Prince George’s County Code requires that “Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree’s condition and the species’ ability to survive construction as provided in the Technical Manual.” The Code, however, is not inflexible.

The authorizing legislation of the Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance (WCO) is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in the WCO are set forth in Section 25-119(d) of the County Code. Section 25-119(d)(4) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

The required findings of Section 25-119(d) were adequately addressed with the PPS for the removal of 25 specimen trees (24–28, 32–40, 45, 46, 49–51, 53–57, and 60).

Due to required grading for the 1.5 factor of safety line, modifications are required to the proposed SWM facility on Sheet 15, which has resulted in the request for removal of an additional two specimen trees numbered 13 and 14. A variance request was submitted with the revised material dated January 26, 2023. A revised variance request was submitted on February 9, 2023, which provided an analysis of each specimen tree proposed for removal.

Tree #	DBH	Common Name	Condition	Reason for Removal
13	57	Red oak	Fair	1.5 Factor of Safety
14	31	White oak	Fair	1.5 Factor of Safety

Evaluation

The Planning Board approves removal of the two specimen trees requested by the applicant, based on the findings below. Section 25-119(d) contains six required findings [text in **bold** below] to be made before a variance from the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below.

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

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the two specimen trees. Those “special conditions” relate to the specimen trees themselves, such as their size, condition, species, and on-site location. The property is 158.28 acres, and the NRI shows approximately 24.42 acres of PMA comprised of streams, floodplain, wetlands, and associated buffers. This represents approximately 15 percent of the overall site area. The applicant proposed nine impacts to the site’s PMA with the PPS, which were fully minimized to the extent practicable, and is proposing woodland conservation and afforestation to further protect the PMA.

The specimen trees are located across the entire site, many within the PMA or just outside the PMA. The specimen trees proposed for removal are located in the areas of the site that are being utilized for the safe transference of stormwater off-site. This required additional grading is due to the nature of the soils and slopes on-site. This site contains steep slopes, wetlands, streams, and floodplains, which restrict grading. Complete retention of these trees would severely limit the developable area of the site. A summary of each tree follows.

Specimen Tree 13 is identified on the TCP2 as 57-inch diameter at breast height, red oak in fair condition. Provided within the variance request, the condition of the tree is further detailed. The assessment of this tree reports some trunk and top decay, as well as general dieback. The trunk is split in one area and limited amounts of decay was observed. This tree is located within the south-central

portion of the site outside of the PMA. While the red oak species tend to have good to medium construction tolerances, the fair condition of the tree shows that further stress could result in additional decay or hazard. The applicant is proposing to remove this tree due to the limitations of the slope type, which requires the 1.5 factor of safety line in certain areas of the site. If this tree were to be retained, the required slope stability grading could not occur, which may lead to slope failure of the associated stormwater feature. The submerged gravel wetland proposed in this area of the site is used as a catchment area for runoff and rainwater from the proposed development. In the event of a slope failure, additional water/runoff may enter the PMA. Specimen Tree 13 is approved for removal, in order to establish the safe transference of stormwater off-site.

Specimen Tree 14 is identified on the TCP2 as 31-inch diameter at breast height, white oak in fair condition. Provided within the variance request, the condition of the tree is further detailed. The assessment of the tree reports some trunk and top decay, as well as general dieback. The trunk was observed to be in good visual condition, with limited scarring. This tree is located within the south-central portion of the site outside of the PMA, roughly 30 feet away from Specimen Tree 13. While the white oak species tend to have good to medium construction tolerances, the fair condition of the tree shows that further stress could result in additional decay or hazard. The applicant is proposing to remove this tree due to the limitations of the slope type, which requires the 1.5 factor of safety line in certain areas of the site. If this tree were to be retained, the required slope stability grading could not occur, which may lead to slope failure of the associated stormwater feature. This submerged gravel wetland proposed in this area of the site is used as a catchment area for runoff and rainwater from the proposed development. In the event of a slope failure, additional water/runoff may enter the PMA. Specimen Tree 14 is approved for removal, in order to establish the safe transference of stormwater off-site.

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

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas. All variance applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the Environmental Technical Manual for site specific conditions. Specimen trees grow to such a large size because they have been left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all somewhat unique for each site.

Based on the location and species of the specimen trees proposed for removal, retaining the trees and avoiding disturbance to the critical root zone would have a considerable impact on the stormwater control and slope stability for the property. If similar trees were encountered on other sites, they would be evaluated under the same criteria. The proposed residential development is a use that aligns with the uses permitted in the R-M Zone. The specimen trees requested for removal are located within the most structurally sound engineering parts of the site.

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

Not granting the variance would prevent the project from being developed in a functional, safe, and efficient manner. This is not a special privilege that would be denied to other applicants. If other similar developments featured regulated environmental features and specimen trees in similar conditions and locations, it would be given the same considerations during the review of the required variance application.

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

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. Removal of the two specimen trees would be the result of stormwater infrastructure and the 1.5 factor of safety grading required, due to underlying soil types for the development. While oak species have good to medium tolerances, the above trees are in fair condition, and may become stressed by grading activities required to stabilize the slopes, thus retaining these trees could lead to hazardous conditions. The request to remove the trees is solely based on the trees' locations on the site, their species, and their condition.

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

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

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

Granting this variance will not violate State water quality standards, nor cause measurable degradation in water quality. Requirements regarding SWM will be reviewed and approved by the DPIE. Erosion and sediment control requirements

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

The required findings of Section 25-119(d) have been adequately addressed for the removal of two specimen trees, identified as Specimen Trees 13 and 14. The Planning Board approved the requested variance for the removal of two specimen trees for the construction of a residential development.

- e. **Historic**—The Planning Board has reviewed and adopts the memorandum dated January 18, 2023 (Gross and Stabler to Burke), in which it was noted that the Historic Preservation Commission reviewed the SDP at its January 17, 2023 meeting and voted unanimously in support of this application, with conditions carried forward from previous applications.
- f. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—Comments were not received from DPIE.
- g. **Prince George's County Police Department**—Comments were not received from the Police Department.
- h. **Prince George's County Health Department**—The Planning Board has reviewed and adopts the memorandum dated December 21, 2022 (Adepoju to Burke), which provided a comment that, prior to grading of the site, if any well and septic structures are discovered, then the applicant is to abandon and backfill those structures according to the guidance of the local regulatory agency. Contact the Health Department's Environmental Engineering and Policy Program for guidance at (301) 883-7681.
- i. **Prince George's County Department of Parks and Recreation (DPR)**—The Planning Board has reviewed and adopts the memorandum dated February 6, 2023 (Thompson to Burke), which noted that, at the time of PPS review, the applicant opted to provide private on-site recreational facilities in designated areas of the site, to serve the recreational needs of the proposed community. The fulfillment of on-site recreation facilities will be evaluated with the future SDP for the site development.

The applicant shall make a monetary contribution into a park club, as recommended by the Westphalia Sector Plan and SMA and conditioned with the PPS.

- j. **Prince George's County Fire/EMS Department**—Comments were not received from the Fire/EMS Department.

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 2 Tree Conservation Plan TCP2-048-2022, and further APPROVED Specific Design Plan SDP-2203 for the above-described land, subject to the following condition:

1. Prior to certification of the specific design plan (SDP), the applicant shall provide the following information and/or revise the site plan to provide the following:
 - a. Revise the boundary lines for outparcels using a consistent line type and providing all bearings and distances.
 - b. A final geotechnical report, including the revised slope stability analysis on Section DD, which the slope stability had failed in the original geotechnical report, shall be submitted for review.
 - c. Provide a legend on each sheet of the Type 2 tree conservation plan.
 - d. Revise the legend to indicate the wetlands symbology present on the Type 2 tree conservation plan.
 - e. All easements and impacts associated with the Washington Suburban Sanitary Commission easement shall be shown on the Type 2 tree conservation plan.
 - f. Each stormwater facility shall be labeled on the Type 2 tree conservation plan and be reflective of the approved stormwater management concept plan.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, Doerner, and Shapiro voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, March 9, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of March 2023.

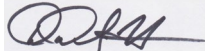
Peter A. Shapiro
Chairman



By Jessica Jones
Planning Board Administrator

PAS:JJ:TB:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: March 13, 2023