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April 25, 2024



Clerk of the County Council
Wayne K Curry Building, 2nd Floor
1301 McCormick Drive
Largo, MD 20774
Via email to: ClerkoftheCouncil@co.pg.md.us

**Re: Notice of Appeal to District Council of Prince George's County of
SE-22002/AC-23008
ESC-8215 Springfield L.C./
Stewart Property
Councilmanic District 4**

Dear Clerk of the County Council:

Please be advised that this firm represents the Wingate Homeowners Association, Inc. ("Wingate"). This letter shall serve as Wingate's appeal of the Decision that was rendered by the Zoning Hearing Examiner (hereinafter referred to as the "ZHE") in the above referenced case on March 26, 2024. Wingate is a Person of Record as noted in Paragraph (27) of the Decision. Wingate is also an aggrieved party who was represented by an attorney during the ZHE hearing pursuant to Section 25-212 of the Maryland Annotated Code Land Use Article. The ZHE erroneously determined that the Application should be remanded to the Zoning Hearing Examiner to allow the Applicant to submit a request for a variance to Section 27-395 (a)(3)(B)'s requirement that the subject property contain 12 contiguous acres; and to reduce the number of dwelling units to the maximum recommended in the 2022 Master Plan. However, such a remand is not permissible, and therefore, the Applicant's request should be denied. As noted on Page 29 of the Decision, Paragraph (3) of the Conclusions of Law, the ZHE believes that the strictures of Sections 27-395 (a)(3) (B) and (C) (regarding the requirement for twelve contiguous acres) have not been satisfied. After having found that the Applicant has failed to satisfy the requirements under the law, the ZHE cannot now remand this case back to herself for another hearing to allow the Applicant an additional opportunity to request a variance.



Clerk of the County Council
April 25, 2024
Page 2

In addition, on Page 28 of the Decision, Paragraph (1) of the Conclusions of Law, the ZHE expressed concerns about the number of units proposed since the Master Plan and General Plan both recommend Residential Low uses on the site, and she does not believe Applicant has satisfied all the provisions of Section 27-395, which means it also would not satisfy all of the provisions of Section 27-317. A variance would not be appropriate or allowed in this instance. Rather, a denial would be in order.

The Special Exception 22002/AC-23008 is a request submitted by the Applicant, ESC 8215 Springfield, L.C., for permission to develop a Planned Retirement Community with fifty-seven (57) age-restricted single-family attached dwellings on approximately 12.01 acres of land which is zoned RR (Rural Residential), and for Alternative Compliance from Section 4.6 and Section 4.10 of the Landscape Manual. Applicant also seeks a variance from Subtitle 25 of the Prince George's County Code for the removal of four specimen trees. The subject property is located approximately 390 feet southeast of the intersection of Lake Glen Drive and Springfield Road, at 8215 Springfield Road, Glenn Dale, Maryland. Wingate is a homeowners association comprised of 256 large 1 acre plus single family lots with large homes and the lots are zoned RE (Residential Estate). However, as noted in a letter submitted by the undersigned counsel on December 19, 2023, which was made a part of the record, the proposed planned retirement community would have an adverse impact upon the community because the site is surrounded by existing communities which are zoned for RR and RE.

Wingate is extremely concerned about the negative impacts that would be caused by the proposed 57-unit planned retirement community upon density in the area. On appeal, Wingate requests that the District Council deny the Applicant's request for Special Exceptions for permission to develop the planned retirement community and for alternative compliance from section 4.6 and section 4.10 of the Landscape Manual. In addition, Wingate requests that the District Council deny the Applicant's request for variance from Subtitle 25 of the Prince George's County Code for the removal of four specimen trees. On Page 5 Paragraph (12) of the Decision, Ms. Sommer explained that the four specimen trees are located in the middle of the site, and that retaining them would make it "challenging to ... manage the infrastructure necessary for development even if [fewer homes were constructed] and also for grading of the site. Ms. Sommer prepared the Statement of Justification for Applicant's request for alternative compliance from Section 4.6 (Buffering Development from Streets) and Section 4.10 (Street Trees Along Private Streets) of the Landscape Manual. However, on Page 7 Paragraph (14) of the Decision, Ms. Sommers did agree that none of the reasons proffered topographical constraints, and Applicant did not consider alternatives to developing the single-family attached dwellings to avoid the need for alternative compliance. Regardless, it did not appear that the ZHE made any determination



Clerk of the County Council
April 25, 2024
Page 3

regarding Applicant's request for variance from Subtitle 25 of the Prince George's County Code for the removal of four specimen trees. Therefore, the request should be denied.

In addition to the foregoing, the ZHE made no determination in regard to the conditions that were imposed by WSSC in their letters dated November and December 2023. On Page 23, Paragraph (36) of the Decision, the ZHE mentions that the WSSC issued a Letter of Findings which indicated that a hydraulic planning analysis had been completed for the subject property and was conceptually approved with certain conditions required. However, the ZHE did not discuss whether any of the conditions had been completed. Specifically, Page 2 of WSSC's November 17, 2023, letter states as follows: "The following is a list of conditions that apply to this project and must be met before a Systems Extension Permit (SEP) will be issued..."

CORROSION CONTROL

Based on your responses within the Corrosion Survey Checklist and our review of this site, it appears that sources of stray current have been identified within 2,000 feet of this site. In accordance with the requirements of the latest WSSC Pipeline Design Manual Part 3 Section 28, the Form "B" Corrosion Documentation will be required to be submitted as part of the design and cathodic protection may be required for this project. If you would like to discuss the corrosion control requirements for this site or locations of testing prior to the submission of the design plans, please contact Mark Lanham within the Engineering and Environmental Services Division at 301-206-8573." The ZHE failed to consider this and several other WSSC concerns during this process.

For the foregoing reasons, the Applicant's requests for Special Exceptions for permission to develop a Planned Retirement Community and for Alternative Compliance from Section 4.6 and Section 4.10 of the Landscape Manual and a Variance from Subtitle 25 of the Prince George's County Code for the removal of four specimen trees should all be denied; and these matters should not be remanded to the Zoning Hearing Examiner to allow the Applicant to apply for a variance because doing so would be improper.

Respectfully submitted,

Sean E. Suhar

Sean E. Suhar

Attorney for

Wingate Homeowners Association, Inc.

Cc: Client
Stan Brown, People's Zoning Counsel via
email to: attorney@stanbrown.law



Clerk of the County Council
April 25, 2024
Page 4

FOR ORAL ARGUMENT

Wingate Homeowners Association, Inc., A Person of Record, is hereby requesting an Oral Argument in the above referenced matter, Appeal to District Council of Prince George's County, SE-22002/AC-23008, ESC-8215 Springfield L.C./ Stewart Property.

Respectfully submitted,

Sean E. Suhar

Sean E. Suhar
Attorney for
Wingate Homeowners Association, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April 2024, I did cause a copy of the foregoing Notice of Appeal and Request for Oral Argument to be served upon all Persons of Record by regular mail.

Respectfully submitted,

Sean E. Suhar

Sean E. Suhar
Attorney for
Wingate Homeowners Association, Inc.