



Prince George's County Council

Sitting as the District Council

Zoning Agenda Item Summary

Case No.: CSP-18002 Remand **Councilmanic District:** 2
Meeting Date: 10/17/2022 **Zone(s):** R-55 / O-S / D-D-O
Case Name: Magruder Pointe (Remand Pursuant to Court Order)
Applicant: Werrlein WSSC, LLC
Location: Located in the southeast quadrant of the intersection of Hamilton Street and 40th Avenue, north of Gallatin Street and west of 40th Place. The subject site is also located within the Traditional Residential Neighborhood (TRN) Character Area of the 2004 Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District (Gateway Arts District Sector Plan and SMA) (8.26 Acres; R-55/O-S/D-D-O Zones).
Request: Requesting approval of a Conceptual Site Plan (CSP) application proposing to rezone the property from the One-Family Detached Residential (R-55) and Open Space (O-S) Zones to the Mixed Use–Infill (M-U-I) Zone for a future single-family residential development. No site improvements have been proposed in this CSP.

Companion

Case(s):

DECISIONS/RECOMMENDATION:

Technical Staff: Approval, with conditions

Planning Board: No Recommendation

Zoning Hearing Examiner:

Municipality: City of Hyattsville.

Opposition:

LEGAL DEADLINES:

Appeal date:

Review date:

Action date:

Comments:

Staff: Henry Zhang

HISTORY:

Acting Body:

Date:

Action:

M-NCPPC Technical Staff 07/18/2018 disapproval

Notes: *DISAPPROVAL of the request and decline to recommend rezoning the property from the One-Family Detached Residential (R-55) and Open Space (O-S) Zones to the Mixed Use–Infill (M-U-I) Zone.*

M-NCPPC Technical Staff 07/18/2018 approval with conditions

Notes: *APPROVAL of rezoning the 4.66-acre property in the Open Space (O-S) Zone to*

the One-Family Detached Residential (R-55) Zone and permit single-family attached residential development with a required detailed site plan, in accordance with the goals and recommendations of the Traditional Residential Neighborhood Character Area on the property.

M-NCPPC Planning Board 07/26/2018 disapproval

Notes: *DISAPPROVAL of the request and decline to recommend rezoning the property from the One-Family Detached Residential (R-55) and Open Space (O-S) Zones to the Mixed Use–Infill (M-U-I) Zone.*

M-NCPPC Planning Board 07/26/2018 approval with conditions

Notes: *APPROVAL of recommendation to rezone the 4.66-acre property in the Open Space (O-S) Zone to the One-Family Detached Residential (R-55) Zone and permit single-family attached residential development with a required detailed site plan, in accordance with the goals and recommendations of the Traditional Residential Neighborhood Character Area on the property. The maximum density for single-family attached is 9 dwelling units per acre and the maximum density for single-family detached is as permitted in the R-55 Zone, or 6.7 dwelling units per acre.*

Clerk of the Council 08/15/2018 mailed

Notes: *Notice of Mandatory Review Hearing (using Oral Argument procedures) was mailed to Persons of Record.*

Person of Record 09/04/2018 appealed

Notes: *Mr. Daniel Muth, Mr. Greg Smith, Mr. Peter Anton Veigas, Ms. Wendy Beatty, Ms. Sarah Eisen, Ms. Nina Faye, Mr. Paul Hrusa, and Mr. Chris Currie, filed an appeal in opposition to the proposal and requested Oral Argument.*

Person of Record 09/10/2018 filed

Notes: *Mr. Greg Smith, Mr. Daniel Muth, and Mr. Carl Nielsen, filed a letter with an attached legal opinion by their attorney, J. Carroll Holzer, Esq. in opposition to the proposal and opposition to the proposed September 17, 2018 Oral Argument.*

Applicant 09/10/2018 filed

Notes: *Norman D. Rivera, Esq., attorney for the applicant, filed a rebuttal to the September 4, 2018 appeal filed by Mr. Daniel Muth, Mr. Greg Smith, Mr. Peter Anton Veigas, Ms. Wendy Beatty, Ms. Sarah Eisen, Ms. Nina Faye, Mr. Paul Hrusa, and Mr. Chris Currie.*

Sitting as the District Council 09/17/2018 continued at a later date

Notes: *Stan Brown, People's Zoning Counsel, spoke to the need to continue this case until Tuesday, October 15, 2018 at 10:00 a.m.*

Person of Record 09/24/2018 filed

Notes: *Candace B. Hollingsworth, Mayor, City of Hyattsville, filed a letter requesting a remand to the Planning Board to allow the city to submit additional testimony*

related to the R-55 recommendation.

Clerk of the Council 09/24/2018 mailed

Notes: *Notice of Mandatory Review Hearing (using Oral Argument procedures) was mailed to Persons of Record.*

Person of Record 09/26/2018 filed

Notes: *Mr. Greg Smith, Mr. Daniel Muth, and Mr. Carl Nielsen, filed a letter in opposition to the proposed October 15, 2018 Oral Argument.*

Person of Record 09/27/2018 filed

Notes: *Mr. Greg Smith, Mr. Daniel Muth, and Mr. Carl Nielsen, filed a second letter in opposition to the proposed October 15, 2018 Oral Argument.*

Applicant 10/12/2018 filed

Notes: *Norman D. Rivera, Esq., attorney for the applicant, filed a letter concurring with a continuance of the October 15, 2018 Oral Argument to satisfy state affidavit requirements.*

Sitting as the District Council 10/15/2018 continued at a later date

Notes: *Stan Brown, People's Zoning Counsel, provided an overview on the status of the case and outlined the reasons why the hearing would take place at a later date in order to satisfy state affidavit requirements. The case was continued as requested and agreed to by certain members of the opposition and the applicant.*

Person of Record 10/17/2018 filed

Notes: *J. Carroll Holzer, Esq., attorney for Mr. Greg Smith, Mr. Daniel Muth, and Mr. Carl Nielsen, filed a letter in opposition to the proposed October 15, 2018 Oral Argument.*

Clerk of the Council 12/12/2018 mailed

Notes: *Notice of Mandatory Review Hearing (using Oral Argument procedures) was mailed to Persons of Record.*

Sitting as the District Council 01/14/2019 postponed

Notes: *Due to inclement weather conditions and pursuant to Sec. 27-291 of the Zoning Ordinance, this District Council Session was postponed to Tuesday, January 15, 2019 immediately following the County Council Session.*

Sitting as the District Council 01/15/2019 hearing held; referred for document

Notes: *Henry Zhang, M-NCCPC, provided an overview of the Conceptual Site Plan application. Jim Chandler with the City of Hyattsville spoke in opposition as did Greg Smith and Daniel Muth. Norman Rivera, Esq., attorney for the applicant, spoke in support on behalf of the applicant as did the following individuals: Charlie Kenny, Nick Harris, Michael Romero, Brenda Cain, Alyce Thompson and Flawn Williams. Stan Brown, People's Zoning Counsel, provided an overview of the case and commented on the factual and legal arguments presented by the parties. The*

Mandatory Review Hearing was held and this item was referred to staff for preparation of an Order of Remand to the Planning Board (Vote: 11-0).

Sitting as the District Council 01/28/2019 remanded

Notes: *Council adopted the prepared Order of Remand to the Planning Board (Vote: 10-0; Absent: Council Member Franklin).*

Clerk of the Council 01/31/2019 mailed

Notes: *The Notice of Decision of the District Council was mailed to Persons of Record.*

M-NCPPC Technical Staff 02/25/2019 approval with conditions

Notes: *The Urban Design Section provided supplemental evaluation and analysis and again recommended APPROVAL of Conceptual Site Plan CSP-18002 for Magruder Pointe as outlined in PGCPB Resolution No. 18-74(A) approving of rezoning the 4.66-acre property in the Open Space (O-S) Zone to the One-Family Detached Residential (R-55) Zone and permit single-family attached residential development with a required detailed site plan, in accordance with the goals and recommendations of the Traditional Residential Neighborhood Character Area on the property. The maximum density for single-family attached is 9 dwelling units per acre and the maximum density for single-family detached is as permitted in the R-55 Zone, or 6.7 dwelling units per acre.*

M-NCPPC Planning Board 03/28/2019 no recommendation

Notes: *After much discussion, a motion for approval failed (a 2-2 tie vote) and no further motions were put forward. Therefore, the findings, including the supplemental analysis required by the remand, are forwarded to the District Council for final decision, without a recommendation supporting any rezoning of the property as required by Section 27-548.26(b).*

Clerk of the Council 04/10/2019 mailed

Notes: *Notice of Mandatory Review Hearing (using Oral Argument procedures) was mailed to Persons of Record.*

Sitting as the District Council 04/15/2019 announced hearing date

Sitting as the District Council 05/13/2019 hearing held; referred for document

Notes: *Jill Kosack, M-NCCPC, provided an overview of the Conceptual Site Plan application. Norman Rivera, Esq., attorney for the applicant, spoke in support on behalf of the applicant as did the following individuals: James Danly, Michael Romero, Nicholas Harrison, Flawn Williams and Alyce Thompson. Jim Chandler, Assistant City Administrator for the City of Hyattsville, spoke in opposition as did Daniel Muth, Daniel Schnable, Thresea Immordino, Karen Veigas, Maureen Vosmek, Jennifer Bosworth, Tim Davis and Greg Smith. Stan Brown, People's Zoning Counsel, provided an overview of the case and commented on the factual and legal arguments presented by the parties. The Mandatory Review Hearing was held and Council referred this item to staff for preparation of an approving*

document with conditions (Vote: 8-0-1; Absent: Council Members Franklin and Glaros; Abstained: Council Member Anderson-Walker).

Aye: 8 Turner, Davis, Dernoga, Harrison, Hawkins, Ivey, Streeter and Taveras

Absent: 2 Franklin and Glaros

Abstain: 1 Anderson-Walker

Sitting as the District Council 06/10/2019 approval with conditions

Notes: *Council adopted the prepared Order of approval, with conditions (Vote: 11-0).*

Aye: 11 Turner, Anderson-Walker, Davis, Dernoga, Franklin, Glaros, Harrison, Hawkins, Ivey, Streeter and Taveras

Clerk of the Council 06/14/2019 mailed

Notes: *The Notice of Final Decision of the District Council was mailed to Persons of Record.*

Person of Record 07/09/2019 filed

Notes: *The City of Hyattsville and certain persons of record filed petitions for judicial review of the District Council's final decision to rezone the subject property and amend the table of uses of the Development District Overlay Zone.*

Circuit Court 12/16/2020 filed

Notes: *The Honorable Beverly J. Woodard issued a Memorandum Opinion AFFIRMING the Final Decision of the District Council.*

Person of Record 12/30/2020 filed

Notes: *Certain Persons of Record and the City of Hyattsville, respectively, appealed the judgment of the Circuit Court to the Court of Special Appeals.*

Person of Record 01/04/2021 filed

Notes: *Certain Persons of Record and the City of Hyattsville, respectively, appealed the judgment of the Circuit Court to the Court of Special Appeals.*

Court of Special Appeals 02/23/2022 filed

Notes: *The Court of Special Appeals published its decision in this matter. In its decision, the Court affirmed the District Council's final decision to rezone the subject property from the O-S Zone to the R-55 Zone. The Court also affirmed the District Council's decision to amend the table of uses in the Development District Overlay Zone to allow townhouses in the R-55 Zone. The Court also affirmed the District Council's final decision to set the density for townhouses in the R-55 zone because there was no cap on density in the Zoning Ordinance for such use in the R-55 Zone. However, the Court found that the District Council erred when it calculated density per acreage as opposed to per net acreage of lot or tract area. As a result, the Court ordered that the Circuit Court should remand this matter to the District Council to recalculate density for one-family detached dwelling units not to exceed 6.7 dwelling units per net acre of net lot or tract area and that the District Council*

may establish a density for townhouses per net acre of net lot or tract area that is different from the density for one-family detached dwelling units only to meet the goals of the Development District and the purposes of the Overlay Zone.

Circuit Court 06/02/2022 filed

Notes: *The District Council received an Order from the Circuit Court dated May 12, 2022, granting the parties' motion to issue an order of remand to the District Council on the issue of density.*

Clerk of the Council 06/23/2022 mailed

Notes: *The Clerk of the Council notified counsel for all parties to this litigation that this matter would appear on today's agenda for action pursuant to the Order of Remand from the Circuit Court consistent with the decision of the Court of Special Appeals.*

Sitting as the District Council 07/12/2022 case taken under advisement

Sitting as the District Council 09/19/2022 referred for document

Notes: *Council referred item to staff for preparation of an approving document, with conditions (Vote: 6-2; Nay: Council Members Dernoga and Ivey; Absent: Council Members Burroughs, Glaros and Taveras).*

Aye: 6 Hawkins, Franklin, Harrison, Streeter, Turner and Medlock

Nay: 2 Dernoga and Ivey

Absent: 3 Glaros, Taveras and Burroughs

Sitting as the District Council 10/17/2022 adopted

Notes: *Council adopted order (Vote:8-3; Nay: Council Members Burroughs, Dernoga and Ivey).*

Aye: 8 Hawkins, Franklin, Glaros, Harrison, Streeter, Taveras, Turner and Medlock

Nay: 3 Dernoga, Ivey and Burroughs

Clerk of the Council 10/19/2022 mailed

Notes: *The Notice of Final Decision of the District Council was mailed to Persons of Record.*

Document(s): CSP-18002 Presentation Slides, CSP-18002 Remand Notice of Action, CSP-18002 City of Hyattsville v. Prince George_s Cty. Council_ 25, CSP-18002 Memorandum Opinion Circuit Court, CSP-18002 Remand Order remanding case to District Council, CSP-18002 Remand Planning Board Resolution 18-74(A), CSP-18002 Remand PORL_searchable, CSP-18002 Remand Technical Staff Report and Memorandum, CSP-18002 Remand Court Record