

Ms. Donna Brown  
Clerk of the County and District Council  
County Administration Building  
Upper Marlboro, Maryland 20772



Re: District Council Oral Argument Hearing/Review of DSP 21001

May 1, 2023

*Via electronic delivery*

Dear Ms. Brown,

I am writing to submit testimony as a person of record. Although I was present at County Council to provide testimony on Monday April 24, 2023, with the continuance of this matter and the new date of oral hearing of May 8, 2023, I am now unable to attend. Please accept my written testimony below for submission into the record.

Dear Council Members:

My name is Allison Kole, and I am a person of record in this matter. I am a resident of the City of Hyattsville, and I serve on the Board of Save Our Sustainable Hyattsville. I became involved in the organization last year by helping out with Public Information Act requests, for which Sustainable Hyattsville had to seek Maryland Ombudsman assistance because of excessive fees as well as delays and interventions by a planning commission attorney. Within the emails eventually provided, there is a set of messages from November 2020 which show Werrlein's representative, Mr. Rivera asserting that the District Council had not imposed any density cap when it approved the CSP (18002). Instead of providing a density calculation for townhouses as directed by planning staff Mr. Henry Zhang, Mr. Rivera worked to over-ride him as the lead reviewer of DSP 18005. As you can see from the attached public records, Mr. Rivera succeeded in enlisting the help of other planning staff.

My overall testimony, however, is from the perspective of a resident and parent of a toddler. Although we are regular users of Driskell Park as well as the area around Northwest Branch and the Anacostia River, we have used them substantially less in the last year due to concerns about the Suffrage Pointe construction site. I am upset by the damage done to these areas and how it affects the health of the waterways where people swim and fish. Allowing the lower parcel to go forward as planned guarantees more damage. Although I've seen the citizen monitoring of Werrlein's violations, reading the reports from MDE in the record before the Council is shocking, not just because of the flagrancy of the violations, but also because of Werrlein's failure to take adequate corrective actions. To add insult to injury, Werrlein's public relations efforts last summer tried to blame the street flooding on old city infrastructure.

Other parents of young children that I know, who do not have the flexibility to participate in this process, oppose this project due to the threat it poses to the park and waterways. Caregivers worry about going to Driskell Park because of the pollution from the site and unsafe construction

practices, including giant trucks idling in the street without a driver during the construction of the upper parcel. I personally witnessed at least one instance of this.

It is become increasingly clear that this project never was likely to share space with the public in a meaningful way, or as John Werrlein put it in a 2018 op-ed: provide a “sustainable and symbiotic relationship to Magruder Park for the enjoyment of ALL Hyattsville residents.”<sup>1</sup> Instead, it appears that Werrlein plans to use much or most of the land that it has tried to sell or give to the City for stormwater management and floodplain mitigation, and Werrlein has sought to pass onto taxpayers and our kids the financial and legal liability of maintaining and retrofitting Werrlein’s stormwater and floodplain facilities if they fail. Werrlein proposes an unsustainable building density plus maximum parking at the expense of everyone downstream.

I’ve seen no evidence that Werrlein’s plans and the County’s approvals account for climate change. According to the federal agency NOAA, in Maryland we face unique climate threats. Temperatures in the state have risen about 2.5°F since the beginning of the 20th century.<sup>2</sup> One threat we are all too aware of is extreme precipitation and flooding in our region: “An increase in the frequency and intensity of extreme precipitation events is projected, potentially increasing flooding events in urban areas and likely expanding flood hazard areas (areas inundated by a flood event).”<sup>3</sup> Greenlighting variances for this project like extra wide driveways instead of requiring more open space and permeable surfaces only adds to the project’s climate risks.

Werrlein and the people representing them will make plenty of profit regardless of what happens on the lower parcel. I am asking the Council to please minimize the burden that will be passed on to the current and future generations of Hyattsville and the surrounding communities, particularly for those people living near the water. Werrlein, just like anyone trying to transform the land, should at a minimum be required by our agencies and elected officials to follow the rules, and their plans and all the County’s approvals should fully account for climate change. This developer may not have to care what happens on the lower parcel ten years from now, but I know that this Council does, and as a parent in Hyattsville, I do too.

Respectfully Submitted,



Allison Kole

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<sup>1</sup> John Werrlein, Hyattsville Life and Times, “My Two Cents: Clarifying Questions About Magruder Pointe Development” <http://hyattsvillelife.com/my-two-cents-clarifying-questions-about-magruder-pointe-development/>

<sup>2</sup> NOAA National Centers for Environmental Information, State Summaries, Maryland and D.C. <https://statesummaries.ncics.org/chapter/md/> (last visited April 24, 2023).

<sup>3</sup> *Id.*

## Warner, David

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**From:** Kosack, Jill  
**Sent:** Tuesday, November 17, 2020 5:12 PM  
**To:** Norman Rivera (normanrivera2012@gmail.com)  
**Cc:** Hunt, James;Zhang, Henry;Checkley, Andree  
**Subject:** RE: Magruder DSP-18005 Density  
**Attachments:** 20201027\_FINAL. Revised Density Chart - DSP-18005.jsk.docx

Norman – Very sorry for the delay and uncertainty in this issue. Please provide a density chart on the coversheet of the DSP as attached. E-mail us a revised pdf of the coversheet with the new density chart and we will proceed with certification of the DSP.

Thanks,

**Jill S. Kosack, RLA, ASLA**

*Planning Supervisor | Urban Design Section | Development Review Division*

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[jill.kosack@ppd.mncppc.org](mailto:jill.kosack@ppd.mncppc.org)



**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>

**Sent:** Thursday, November 12, 2020 4:51 PM

**To:** Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)>

**Subject:** Re: Magruder DSP-18005 Density

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Thanks James. I knew it and that is why we were reluctant to give that info. He is simply in error. There is no condition by the District Council that there is a 9 unit per acre cap on single-family attached or townhouses and they make the final decision. I attached highlighted excerpts from the Council Order to definitely indicate that the Planning Board in the PPS and DSP approved 31 units (15 SFA/16 SFDU) and the entire Order. There is no condition to that effect. Furthermore, Footnote 4 of the CSP approval in the Council Order of the CSP also says 31 units in the subject property (Page 8). Conditions of the CSP do NOT include any per acre density caps. Condition 1.b. did require the applicant to revise the CSP to include the number of lots in CSP application which was 72 total with 31 in the upper parcel (this DSP) and 41 in the lower parcel (PPS/DSP to be filed).

Can you set up or I set up a zoom with you and Andree' and my client ASAP?

Sincerely,

Norman

Norman D. Rivera, Esq.  
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301-352-4973 Direct  
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On Thu, Nov 12, 2020 at 9:39 AM Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)> wrote:

Hi Norman,

I forwarded it to Henry, and he was saying that since the density cap is at 9 dus per acre, at 13.76, the THs are above the cap and you all will need to remove 5 units.

**James R. Hunt, MPA**

*Planning Division Chief | Development Review Division*

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[james.hunt@ppd.mncppc.org](mailto:james.hunt@ppd.mncppc.org)



**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Wednesday, November 11, 2020 12:49 PM  
**To:** Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)>  
**Subject:** Magruder DSP-18005 Density

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Hi James, here is a chart which I think he wants. Just note the unit per acre calculations in the red box and in the table are info only as the CSP Order does NOT have a per acre cap.

Thanks!

Sincerely,

Norman

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## **DENSITY CALCULATION**

ZONE	R-55
USES	SINGLE FAMILY ATTACHED & DETACHED
GROSS/NET ACREAGE	8.26 / 5.24
DENSITY PERMITTED	72 UNITS*
DENSITY PROPOSED (Upper Lot)	31
REMAINING DENSITY (Lower Lot - Outparcel 1)	41

\*DENSITY DETERMINED PER THE COUNCIL'S APPROVAL OF CSP-18002. PLEASE REFER TO SHEET 8 OF THE FINAL DECISION – APPROVAL OF CONCEPTUAL SITE PLAN, FOOTNOTE 4, WHICH READS: "TO FACILITATE ORDERLY R-55 DEVELOPMENT OF THE 8.26-ACRE PROPERTY, AND EXPANSION OF PARKLAND WITH THE CITY OF HYATTSVILLE, APPLICANT PROPOSES AN OVERALL DENSITY OF 72 UNITS. 31 UNITS ARE PROPOSED FOR THE UPPER LOT AND 41 UNITS ARE PROPOSED FOR THE LOWER LOT."

## Warner, David

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**From:** Norman Rivera <normanrivera2012@gmail.com>  
**Sent:** Tuesday, November 17, 2020 3:38 PM  
**To:** Checkley, Andree  
**Subject:** Fwd: Magruder Pointe DSP-18005  
**Attachments:** 11-12-20. Density Excerpts DSP-18005 Council Order. 001.pdf

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Hello there and hope all is well with you.

We are having a difficult time to get the Magruder DSP certified. Staff, as in Henry, wants me to lose units now. We got the CSP approved and certified and the same with the prelim plan. Now he is saying we have a per acre cap and we do not. At Oral Argument with the Council, Raj and Stan agreed; the Council voted unanimously; and there is not a typical per unit calculation as it is a DDOZ.

I asked James to help and he enlisted Jill but she is going to write up a response today I hear but I would prefer a call first. Henry 4 different times (below emails) said the density table was not right. But he will not tell me in what way. His last one to me was "figure it out with your engineering team" ! I have asked him and Jill to just redline my table to give me direction to no avail. Karl is freaking out as we need plats in Dec after cert.

If you call me I can explain but I sent highlighted excerpts and Henry was in the hearing himself and heard it. Maybe I am missing something but some feedback is usually provided. Karl and I can do a call or me. Thank you.

Sincerely,

Norman

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----- Forwarded message -----

From: **Norman Rivera** <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>

Date: Tue, Nov 10, 2020 at 12:35 PM

Subject: Fwd: Magruder Pointe DSP-18005

To: Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)>

Morning James. I'm gonna have to call you about this issue with certification with our DSP. Henry said my density chart is insufficient. So I revised it twice. It is similar to the one for the CSP, the prelim, and when we filed and the Board approved the DSP. I keep asking Henry to just tell me what he wants to see on a density table and he keeps telling me to just figure it out. I've never had that happen to me. Usually staff redlines something or says some detail I can follow as I can't read your mind. **All I request is a hand redlined pdf and I can move on.** Thanks James I hate to bug you but we need plats in December and DSP cert is needed for that.

Timeline:

Planning Board approval- June 11

Council Approval- Oct. 5

Order sent- Nov. 2

First attempt on density table- Oct. 28

Told no- Nov. 2 and I asked for direction

Chief of Staff for Councilwoman Taveras told cert was to be approx Nov. 11

I asked again for direction- Nov. 5

Asked for redline and told no- Nov. 11

----- Forwarded message -----

From: **Zhang, Henry** <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>

Date: Tue, Nov 10, 2020, 7:51 AM

Subject: RE: Magruder Pointe DSP-18005

To: Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>, Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>

Norman,

You will need to work with your engineer team to find out a way to meet the condition.

Thanks

**Henry H. Zhang**, AICP LEED AP CPTED Specialist

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772  
301-952-4151 | [henry.zhang@ppd.mncppc.org](mailto:henry.zhang@ppd.mncppc.org)

**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Monday, November 9, 2020 4:33 PM  
**To:** Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>  
**Cc:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>  
**Subject:** Re: Magruder Pointe DSP-18005

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Hello Henry can you redline a table we sent you so I can figure out how to do this? Thanks

On Thu, Nov 5, 2020, 11:32 AM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

Thanks but absent some direction I don't know what he wants. The DSP has the same layout and density as the PPS and CSP. I am happy to review a mark up from staff for direction. Thanks

On Thu, Nov 5, 2020, 11:19 AM Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)> wrote:

Norman – The last communication from Henry I saw about the density issue was the attached e-mail. I was of the understanding that it was up to you to resolve still. I believe it is the last item for certification.

Thanks,

**Jill S. Kosack, RLA, ASLA**

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**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Thursday, November 5, 2020 10:59 AM  
**To:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>  
**Cc:** Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>  
**Subject:** Re: Magruder Pointe DSP-18005

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Good morning. I heard Henry is out until Monday. Jill can you let me know if you all resolved the density table issue? It was the only issue I was made aware needed to completed COA. We are running out of time for plats this year. Thank you.

Sincerely,

Norman

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On Mon, Nov 2, 2020 at 1:46 PM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

I must point out that there are bulk standards as approved in the DSP such as for lot sizes for the 2 lots under 5000 so. But there are no caps for units per acre as conditions. Note 4 of the CSP explains the density is related to the parkland to be facilitated which provides a nexus between the acreage, and parkland. Hence there is no unit care calculation.

On Mon, Nov 2, 2020, 1:26 PM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

We are confused. The DSP shows 31 lots which was shown on the CSP and PPS. Please elaborate

On Mon, Nov 2, 2020, 1:19 PM Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)> wrote:

Norman,

We did review your submitted density table, which is not enough to demonstrate if the proposed development in this DSP is consistent with the approved CSP.

Understand that you try to use the same way as you employed in the PPS approval. However, the CSP mandates that the DSP stays within the Density caps and approves bulk standards for the development.

In summary, the density table should demonstrate the consistency.



Thanks

**Henry H. Zhang**, AICP LEED AP CPTED Specialist

*Master Planner | Urban Design*

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**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Monday, November 2, 2020 11:30 AM  
**To:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>; Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>  
**Cc:** Davis, Lisa <[Lisa.Davis@ppd.mncppc.org](mailto:Lisa.Davis@ppd.mncppc.org)>  
**Subject:** Re: Magruder Pointe DSP-18005

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Good morning. Has anyone been able to review and respond? We need DSP Cert for plants. Thanks

On Wed, Oct 28, 2020, 10:58 AM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

Good morning Henry. Please see the attached density chart as revised. It reflects the requirements of Condition 1.d. (attached) which states as follows below. Again, the CSP approved 72 units total with 31 on the upper parcel which the PPS and this DSP also reflects. The chart also refers to Footnote 4 of the CSP which as was stated at oral argument and agreed upon by Stan Brown and Raj Kumar. Thank you and please let me know if you have any questions.

"B. Conditions of DSP-18005 are as follows:

1. Prior to certification, the detailed site plan (DSP) shall be revised, or additional information shall be provided, as follows:

a. Obtain signature approval of Preliminary Plan of Subdivision 4-18001, and revise the DSP, as necessary.







