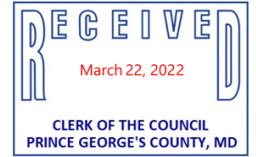


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EDWARD C. GIBBS, JR.
THOMAS H. HALLER

JUSTIN S. KORENBLATT

March 22, 2022

Ms. Donna J. Brown,
Clerk of the County Council
Wayne K. Curry Administration Building, 2nd Fl.
Largo, Maryland 20774

Re: Applicant's Response to Exceptions;
Woodside Village; A-9973-C-01

Dear Ms. Brown:

On February 1, 2022, the Zoning Hearing Examiner issued a Decision in the matter of an Amendment of Basic Plan referenced as Zoning Map Amendment A-9973-C-01 for a property known as Woodside Village. On February 9, 2022, exceptions to the Decision were filed by Andrea Bobby Allen by email. Oral Argument has been scheduled for March 28, 2022. Pursuant to Section 27-131.01 of the Prince George's County Code, a response to the exceptions may be filed by any party of record within five days prior to the Oral Argument. Please accept this correspondence as the Applicant's response to the exceptions filed in this case.

BACKGROUND INFORMATION

Westphalia Meadows, LLC is the owner of 63.3 acres of land located on the south side of Westphalia Road in Upper Marlboro Maryland and is the applicant ("Applicant"). The property owned by the Applicant is part of a larger assemblage of land known as Woodside Village. Woodside Village was the subject of Zoning Map Amendment A-9973, which rezoned 381.95 acres of land to the R-M Zone, a Comprehensive Design Zone. The application was approved through the adoption of CR-2-2007, which approved the Westphalia Sector Plan and Sectional Map Amendment. At that time, although the property which constituted Woodside Village

consisted of five separate properties owned by five separate individuals, the entire property was under contract to be sold to a single developer, Toll Brothers.

After Woodside Village was rezoned, the Great Recession occurred, and development of the property did not proceed and Toll Brothers contract to purchase the property assemblage lapsed. Subsequently, two of the properties, containing approximately 160 acres of land, were purchased by the Maryland-National Capital Park and Planning Commission ("M-NCPPC"), effectively separating the land owned by Westphalia Meadows, LLC from the remainder of the land in private ownership.

Section 27-197(b) establishes a procedure for dividing a single approved Basic Plan into two or more separate Basic Plans where changes in circumstances with the approved Basic Plan create practical difficulties for the Applicant which prevent the approval of a Comprehensive Design Plan unless the Basic Plan is amended to separate a specified amount of land area. Such circumstances have occurred in this case with the acquisition of the land by M-NCPPC. The request before the District Council was filed pursuant to this provision.

In addition to the instant application, a second request to separate the remainder of the land not now owned by M-NCPPC was filed for the balance of the original Woodside Village, consisting of 158.11 acres. That application, referenced as A-9973-C-02, was approved by the District Council in January, 2022. Thus, that property has now been approved to proceed as a separate Basic Plan. If the application now before the District Council is approved, two Basic Plans will be created, one for each of the portions of the land not now in public ownership.

RESPONSE TO EXCEPTIONS

As noted above, exceptions were filed by a party of record in this case, Andrea Bobby Allen. Ms. Allen testified before the Zoning Hearing Examiner. Each of the items listed in the exception was raised before the Zoning Hearing Examiner. As the examiner indicated during the hearing, some of the concerns raised by Ms. Allen were not legally relevant to the legal criteria applicable to the pending request. However, Ms. Allen was advised by the Peoples Zoning Council that later stages of the development review process would address her concerns and allow her an opportunity to further participate in the process (Tr. p. 83-84). As the District Council is aware, comprehensive design zones require multiple levels of approval, and for this

property a Basic Plan is already approved. In addition to the Basic Plan, a Comprehensive Design Plan, a Preliminary Plan of Subdivision and a Detailed Site Plan will also be required. The concerns raised by the appellant will all be addressed in these subsequent land use approval processes, as discussed in greater detail below.

In the exceptions filed, Ms. Allen lists seven reasons for filing exceptions:

- She is concerned that construction will impact flooding in her neighborhood;

RESPONSE: A site development concept plan will be required to ensure that stormwater management is provided in conformance with the environmental site design standards required by the State of Maryland and as implemented in Subtitle 32 of the Prince George's County Code. The Applicant would also note while the portion of the Woodside Village development that was the subject of A-9972-C-02 is located directly across Westphalia Road from the Westphalia Woods subdivision in which Ms. Allen lives, the Subject property is not located directly across from that subdivision. Rather, the Subject Property is located to the east and topographically lower than the closest part of Westphalia Woods. Thus, not only will the concerns about flooding be addressed with the site development concept plan, the topography of the Subject Property does not allow water to drain into the subdivision.

- She believes that eagles are living on the property proposed for development;

RESPONSE: Environmental issues, including the existence or impact of a development on rare, threatened or endangered species is required during the review of a preliminary plan of subdivision. Thus, this issue will be addressed at a later stage of the process. Also, as noted above, the Subject Property is not located directly across from the Westphalia Woods subdivision and approximately 70% of the Subject Property is an open field which has been farmed for many years.

- The construction of a new neighborhood will lead to changes in the public school bussing;

RESPONSE: Decisions regarding bus routes and bussing policy are outside the scope of the land use approval process. However, to the extent this concern relates to pedestrian safety, the

development of the Woodside Village project will include a review of bicycle and pedestrian facilities and require the construction of road improvements and the installation of sidewalks and crosswalks in appropriate locations.

- Noise pollution will be created by traffic generated by the community;

RESPONSE: Noise impacts on proposed development is always considered during the development review process where warranted. The concern in this case relates to noise from traffic generated by the subdivision. The Westphalia Woods subdivision does not have any through streets and none of the traffic will impact that subdivision unless visiting a home in the subdivision. The traffic will impact existing collector and major collector roads designed for the levels of traffic to be generated by the subdivision.

- She has environmental concerns due to a natural gas line which is currently being installed by Washington Gas;

RESPONSE: The gas line being installed by Washington Gas is unrelated to the Subject Property and is not located on the Subject Property. It is noted however, that one of the five parcels originally included in the Woodside Village Basic Plan was purchased by Washington Gas for the purpose of installing the gas line and then subsequently transferred to the M-NCPPC. The Applicant is aware from meeting with the Westphalia Woods community that the gas line further extends along the eastern edge of that subdivision and understands why the proximity of the gas line would be a concern to that community.

- She is concerned with the size of the homes to be constructed within the community;

RESPONSE: During the hearing, there was testimony related to Condition 3(e) of the original Basic Plan approved by CR-2-2007 and that the condition was modified by a later Revisory Petition to state that the "CDP shall demonstrate that the frontage lots along Westphalia Road opposite the frontage of the Westphalia Woods subdivision, shall be single-family detached lots in order to ensure compatibility with the character and density of the dwellings in the Westphalia Woods subdivision." As discussed in the hearing (Tr. p 62-64), this condition applied to the property that was the subject of A-9973-C-02, not to the Subject Property, as the Subject Property is not located across Westphalia Road from the Westphalia Woods subdivision. The

development of the land across from the Westphalia Woods subdivision will be addressed in later stages of the property subject to A-9973-C-02. The development proposed for the Subject Property is consistent with the types of development approved by the initial Basic Plan and will not exceed the density approved by the initial Basic Plan.

- Traffic is a major concern and there is a bend in Westphalia Road;

RESPONSE: Two traffic reports were included in the record (Exhibits 21 and 35) addressing the requirements related to traffic applicable to approval of a Basic Plan. Further, expert testimony was provided from Mr. Michael Lenhart (Tr. P. 22-37). Mr. Lenhart testified that the application satisfies the requirements of Section 27-195(b)(1)(C) applicable to transportation. In addition, it was noted in the testimony that Westphalia Road would be improved as part of the frontage improvements required in conjunction with the development of the Subject Property. In addition, Mr. Lenhart testified that there are horizontal alignment issues with Westphalia Road that will be addressed with the development of the properties fronting it. Finally, Mr. Lenhart testified that an additional full traffic study would be prepared and reviewed at the time of the approval of the preliminary plan of subdivision. For all these reasons, the concerns raised by Ms. Allen regarding transportation issues will be addressed at future stages of the development review process.

As discussed in detail above, the concerns of the community related to storm water, natural resources, traffic and other issues will be addressed during subsequent stages of the development review process. The applicant will meet with the community as these plans are prepared and processed to discuss the concerns and answer any questions related to the plan.

In conclusion, the application before the District Council requests that an existing, approved Basic Plan be split into two or more Basic Plans due to the acquisition by M-NCPPC of approximately 42% of the property. This acquisition splits the overall development into two separate development areas which cannot now proceed to the Comprehensive Design stage without being separated into individual Basic Plans. One application has already been approved. Approval of this application is necessary to allow the Subject Property to proceed to the CDP stage. As set forth in the decision of the Zoning Hearing Examiner, the application before the District Council satisfies

all of the criteria set forth in Section 27-197(b) of the Zoning Ordinance applicable to a request to amend an approved Basic Plan into two or more Basic Plans. The Applicant concurs with the findings and conclusions set forth in the decision of the Zoning Hearing Examiner and agrees to all the recommended conditions.

The Applicant will be in attendance at the hearing on March 28, 2022 through counsel to address any questions that the District Council may have.

Very truly yours,

GIBBS AND HALLER

A handwritten signature in blue ink, appearing to read 'T. Haller', with a long horizontal flourish extending to the right.

Thomas H. Haller

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2022, a copy of this Response to Exceptions was mailed by first class mail, postage prepaid, to all parties of record in A-9973-C-01.

A handwritten signature in blue ink, appearing to read 'T. Haller', with a long horizontal flourish extending to the right, enclosed in a rectangular box.

Thomas H. Haller