

LAW OFFICE OF  
G. MACY NELSON, LLC

G. MACY NELSON\*  
gmacynelson@gmacynelson.com  
\*Also admitted in D.C.

600 Washington Avenue, Suite 202  
Towson, Maryland 21204-1301  
(410) 296-8166  
www.gmacynelson.com

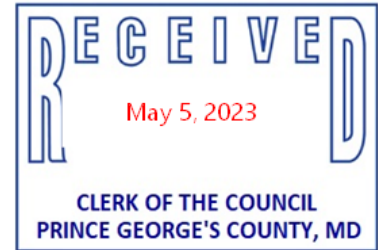
GRANT AMADEUS GIEL\*\*  
grant@gmacynelson.com  
\*\*Also admitted in New York

ALEXANDRA VOTAW\*  
alex@gmacynelson.com  
\*Also admitted in D.C.

May 5, 2023

Email: [clerkofthecouncil@co.pg.md.us](mailto:clerkofthecouncil@co.pg.md.us)

Office of the Clerk of the Council  
Prince George's County  
County Administration Building  
14741 Governor Oden Bowie Drive  
Upper Marlboro, MD 20772



Re: DET-2022-001 Westphalia Business Center 1 and 2  
Northpoint Realty Partners, LLC, Applicant

Dear Madam Clerk,

I will be representing the following Citizen-Protestants in the oral arguments related to DET-2022-001 Westphalia Business Center 1 and 2 scheduled for May 15, 2023:

Denise France-Steele  
Rongalett D. Green  
Jante Turner  
Dr. Chinonye Nnakwe Whitley  
Corryne Carter  
Nicole McMichael  
Sharon Bostic

Attached herein, please find several documents which I may use during my arguments before the District Council.

Letter to Clerk of the Prince George's County Council

May 5, 2023

Page 2

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Alex Votaw', is written over a horizontal line.

Alex Votaw, Esq.

Law Office of G. Macy Nelson, LLC

600 Washington Avenue, Suite 202

Towson, Maryland 21204

(410) 296-8166, ext. 303

[alex@gmacynelson.com](mailto:alex@gmacynelson.com)

AIS No. 2112150190

cc: *James Walker-Bey* (via email)  
*Donna J. Brown* (via email)  
*Stan Brown* (via email)  
*Marva Jo Camp, Esq.* (via email)  
*Rajesh Kumar, Esq.* (via email)

## Sec. 25-119. - Applicability.

\* \* \* \* \*

## (g) Grandfathering

- (1) TCPs that are approved prior to the effective date of this Division shall be grandfathered and shall be subject to the regulations in place at the time of approval. Plans that are grandfathered are subject to the expiration provisions of this Division.
- (2) TCPs that were approved under prior regulations that did not contain the replacement requirements (plans approved using the pre-1993 provisions) and that have not received an approved grading permit to date, are considered expired plans. A new TCP shall be reviewed and approved using the current provisions of this Division.

(CB-27-2010; CB-32-2011; CB-87-2013; CB-99-2021)

Code of Maryland Regulations

Title 08. Department of Natural Resources

Subtitle 19. Forest Conservation

Chapter 01. General (Refs & Annos)

COMAR 08.19.01.04

.04 Application.

Currentness

A. Exemptions. The provisions of this subtitle do not apply to:

- (1) Highway construction activities under [Natural Resources Article, § 5-103](#), Annotated Code of Maryland;
- (2) Areas governed by the Chesapeake Bay Critical Area Protection Law, [Natural Resources Article, §§ 8-1801--8-1817](#), Annotated Code of Maryland, including those areas into which Critical Area forest protection measures have been extended under [Natural Resources Article, § 5-1602\(c\)](#), Annotated Code of Maryland;
- (3) Commercial logging and timber harvesting operations, including harvesting subject to the forest conservation and management program under [Tax-Property Article, § 8-211](#), Annotated Code of Maryland, that are completed on or after July 1, 1991, on property which:
  - (a) Has not been the subject of an application for a grading permit for development within 5 years after the logging or timber harvesting operation, and after which time the property shall be subject to this subtitle; and
  - (b) Is the subject of a declaration of intent as provided for in Regulation .05 of this chapter which includes a sketch map of the property showing the area to be harvested;
- (4) Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person who is engaging in an agricultural activity clearing 40,000 square feet or greater of forest within a 1-year period may not receive an agricultural exemption unless the person files a declaration of intent as provided for in Regulation .05 of this chapter which includes:
  - (a) A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for 5 years from the date of the declaration; and
  - (b) A sketch map of the property, which shows the area to be cleared;

(5) The cutting or clearing of public utility rights-of-way licensed under [Public Utilities Article, §§ 7-207 and 7-208](#) or [7-205](#), Annotated Code of Maryland, or land for electric generating stations licensed under [Public Utilities Article, §§ 7-207 and 7-208](#) or [7-205](#), Annotated Code of Maryland, if:

(a) Required certificates of public convenience and necessity have been issued under [Natural Resources Article, § 5-1603\(f\)](#), Annotated Code of Maryland; and

(b) Cutting or clearing of the forest is conducted to minimize the loss of forest;

(6) Routine maintenance or emergency repairs of public utility rights-of-way licensed under [Public Utilities Article, §§ 7-207 and 7-208](#) or [7-205](#), Annotated Code of Maryland;

(7) Except for a public utility subject to § A(6) of this regulation, any routine maintenance or emergency repairs of a public utility right-of-way if:

(a) The right-of-way existed before the effective date of a State or local program; or

(b) The right-of-way's initial construction was approved under this subtitle;

(8) A residential construction activity that is conducted on an existing single lot of any size of record at the time of application, or a linear project not otherwise exempted under § A(5), (6), or (7) of this regulation, if the activity:

(a) Does not result in the cumulative cutting, clearing, or grading of more than 20,000 square feet of forest;

(b) Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this subtitle; and

(c) Is the subject of a declaration of intent filed with the Department or local authority, as provided for in Regulation .05 of this chapter, stating that the lot will not be the subject of a regulated activity within 5 years of the cutting, clearing, or grading of forest;

(9) Strip mining or deep mining of coal regulated under Environment Article, Title 15, Subtitle 5 or 6, Annotated Code of Maryland;

(10) Noncoal surface mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland;

(11) An activity required for the purpose of constructing a dwelling intended for the use of the owner, or a child of the owner, if the activity:

- (a) Does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and
  - (b) Is the subject of a declaration of intent, as provided for in Regulation .05 of this chapter, stating that the lot will not be the subject of further subdivision or a regulated activity within 5 years of the cutting, clearing, or grading of forest;
- (12) A county that has and maintains 200,000 acres or more of its land area in forest cover and which has met the provisions of [COMAR 08.19.02.01B or D](#), and a municipality within an exempt county that has assigned its obligations to the county under [Natural Resources Article, § 5-1603\(a\)\(3\)](#), Annotated Code of Maryland, and [COMAR 08.19.02.01C or D](#);
- (13) A preliminary plan of subdivision or a grading or sediment control permit approved before July 1, 1991;
- (14) A planned unit development that, by December 31, 1991, has:
- (a) Met all local requirements for planned unit development approval; and
  - (b) Obtained initial development plan approval by the appropriate local planning or zoning authority;
- (15) A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, in a portion of a lot or parcel, if:
- (a) The transfer does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
  - (b) Both the grantor and grantee file a declaration of intent as provided for in Regulation .05 of this chapter;
- (16) An activity on a previously developed area covered by impervious surface and located in the priority funding area;
- (17) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure; or
- (18) Stream restoration project, as described regulation .03 of this Chapter, for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner or owners.

B. Application. The provisions of this subtitle apply to:

- (1) A unit of local government having planning and zoning authority, required to adopt a local program;

(2) Under COMAR 08.19.04, any construction, project plan, grading, or sediment control activity, except for an activity regulated under [Natural Resources Article, § 5-103](#), Annotated Code of Maryland, on areas 40,000 square feet or greater by:

(a) A State agency; or

(b) A unit of county government, municipality, or other political subdivision, including a public utility or public works project;

(3) A person filing application for a subdivision, grading, or sediment control permit on areas of 40,000 square feet or greater, including public utility construction not exempt under § A of this regulation, after the dates provided for in § C of this regulation.

C. Except as provided in § D of this regulation, on or after January 1, 1993, or the effective date of a local program, whichever is earlier, the local jurisdiction or other approving authority may not approve an application for subdivision or grading or sediment control plan approval that is not accompanied by an approved forest conservation plan.

D. Effective Date.

(1) The absence of an approved forest conservation plan does not prevent a local jurisdiction or other approving authority from approving an application for final plat or equivalent approval, as this term is defined by the local jurisdiction and approved by the Department, if the application is:

(a) Filed before January 1, 1993, or the effective date of a local program, whichever is earlier; and

(b) Substantively complete for final determination under applicable criteria other than forest conservation requirements.

(2) For the purpose of § D(1) of this regulation, a local jurisdiction shall consider an application to be substantively complete even if an approval or permit from another government agency that is required as part of the application has not been obtained, if the local jurisdiction determines that the approval or permit is not available solely because of the inaction of the other government agency and not because the applicant has failed to use best efforts to obtain the approval or permit.

(3) A person who has obtained final plat or equivalent approval, or has filed an application that satisfies this section, before January 1, 1993, or the effective date of a local program, whichever is earlier, is not required to file a forest conservation plan with a subsequent application for sediment or grading plan approval for the tract to be developed according to the final plat or equivalent approval.

Complete through Maryland Register Vol. 50, Issue 03 dated February 10, 2023. Some sections may be more current, see credits for details.

COMAR 08.19.01.04, MD ADC 08.19.01.04

West's Annotated Code of Maryland

Natural Resources

Title 5. Forests and Parks (Refs & Annos)

Subtitle 16. Forest Conservation (Refs & Annos)

MD Code, Natural Resources, § 5-1603

## § 5-1603. Local forest conservation programs

Effective: October 1, 2013

[Currentness](#)

\* \* \* \* \*

### **Submission of adopted program**

(c)(1) All units of local government with planning and zoning authority shall submit to the Department, by December 31, 1992, their adopted forest conservation program which meets or is more stringent than the requirements and standards of this subtitle.



West's Annotated Code of Maryland

Natural Resources

Title 5. Forests and Parks (Refs & Annos)

Subtitle 16. Forest Conservation (Refs & Annos)

MD Code, Natural Resources, § 5-1607

§ 5-1607. Afforestation and reforestation requirements, priorities

Effective: June 1, 2021 to June 30, 2024

[Currentness](#)

<Section effective until July 1, 2024. See, also, [section 5-1607](#) effective July 1, 2024.>

\* \* \* \* \*

**Priority for retention and protection**

(c)(1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

(i) Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes, and critical habitats; and

(ii) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under [§ 5-1611](#) of this subtitle:

(i) Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;

(ii) Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and

(iii) Trees having a diameter measured at 4.5 feet above the ground of:

(1) 30 inches;

(2) 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

## 27-1704. Projects Which Received Development or Permit Approval Prior to the Effective Date of this Ordinance

- (a) Except for a zoning map amendment (ZMA) of any type, development approvals or permits of any type approved under this Subtitle or Subtitle 24 of this Code prior to April 1, 2022 remain valid for the period of time specified in the Zoning Ordinance or Subdivision Regulations under which the project was approved. Extensions of time which were available in the Zoning Ordinance or Subdivision Regulations under which it was approved shall remain available. If the approval is for a CSP, special permit, Comprehensive Sketch Plan, or CDP, it shall remain valid for twenty years from April 1, 2022, and shall not be subject to the indefinite time period of validity under the Zoning Ordinance under which it was approved, except for a CSP as to a Waterfront Entertainment Complex use, which shall remain valid indefinitely. In addition, a Basic Plan approved prior to the effective date of this Ordinance is grandfathered and can be amended. In addition, the text of this Subsection shall control over any other provision of this Section.

\* \* \* \* \*

- (e) Subsequent revisions or amendments to development approvals or permits “grandfathered” under the provisions of this Section shall be reviewed and decided under the Zoning Ordinance under which the original development approval or permit was approved, unless the applicant elects to have the proposed revision or amendment reviewed under this Ordinance. Notwithstanding the requirements of Sections 27-289 and 27-325 of the prior Zoning Ordinance (2019 Edition, 2021 Supp.), revisions or amendments to such “grandfathered” development approvals or permits may construct one or more electric vehicle charging stations subject to the review and approval of the DPIE Director.

## 27-3605. Detailed Site Plan

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### (e) Detailed Site Plan Decision Standards

A detailed site plan may only be approved upon a finding that all of the following standards are met:

- (1) The proposed development represents a reasonable alternative for satisfying the applicable standards of this Subtitle, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use;
- (2) The proposed development complies with all conditions of approval in any development approvals and permits to which the detailed site plan is subject;
- (3) The proposed development demonstrates the preservation and/or restoration of the regulated environmental features in a natural state, to the fullest extent possible, in accordance with the requirements of Section 24-4303(D)(5) of [Subtitle 24: Subdivision Regulations](#);
- (4) Proposed development located within a Planned Development (PD) zone shall be in conformance with the PD Basic Plan and PD Conditions of Approval that apply to that development;
- (5) The proposed development conforms to an approved Tree Conservation Plan, if applicable;
- (6) The development proposed in a detailed site plan for infrastructure complies with applicable regulations of [PART 27-6: Development Standards](#), 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; and
- (7) Places of worship located on a lot between one (1) and two (2) acres in size shall also meet the following standards:
  - (A) The minimum setback for all buildings shall be twenty-five (25) feet from each lot line;
  - (B) When possible, there should be no parking or loading spaces located in the front yard; and
  - (C) The maximum allowable lot coverage for the zone in which the use is proposed shall not be increased.

[\(CB-068-2022\)](#)