

Case No.: SDP-9907/01 Beech Tree,
East Village

Applicant: V.O.B. Limited Partnership

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION,
WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in Resolution PGCPB No. 13-77, to approve with conditions a specific design plan to revise the approved transportation improvement staging plan that was approved previously in conjunction with SDP-9907, located in the northeastern portion of the Beech Tree development site, on the west side of Robert Crain Highway (US 301), south of Leeland Road, in Planning Area 79 and Council District 6, is AFFIRMED, subject to the District Council's original jurisdiction over SDP-9907/01, pursuant to §§ 27-132(f)(1), A-9763-C, CDP-9706, and its authority to affirm the application pursuant to §§ 27-523, 27-528, 27-528.01 of the Zoning Ordinance.

As the basis for this action, the District Council, pursuant to §§ 27-132(f)(1), 27-523, 27-528, and 27-528.01 of the Zoning Ordinance, adopts and incorporates by reference, as if fully stated herein, the findings and conclusions stated by the Planning Board in its Resolution, PGCPB No. 13-77, except as otherwise stated in Attachment A.

ORDERED this 15th day of October, 2013, by the following vote:

In Favor: Council Members Davis, Franklin, Lehman, Olson, Patterson, Toles and Turner.

Opposed:

Abstained:

Absent: Council Members Campos and Harrison.

Vote: 7-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

BY: _____
Andrea C. Harrison, Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

ATTACHMENT A**ORDER OF APPROVAL WITH CONDITIONS SDP-9907/01****PROCEDURAL HISTORY, FINDINGS, CONCLUSIONS, AND CONDITIONS****Procedural History**

This case involves the approval of a specific design plan, SDP-9907/01, to revise the approved transportation improvement staging plan that was approved previously in conjunction with SDP-9907, located in the northeastern portion of the Beech Tree development site, on the west side of Robert Crain Highway (US 301), south of Leeland Road, in Planning Area 79 and Council District 6.

On June 27, 2013, Planning Board considered evidence presented at a public hearing and pursuant to §27-528 of the Zoning Ordinance,¹ adopted a resolution, PGCPB No. 13-77, which approved, with conditions, SDP-9907/01.

On July 25, 2013, Mark Noblett, a person of record, filed an appeal, pursuant to §27-523, of the Planning Board's decision, PGCPB No. 13-77, to the District Council.

On September 30, 2013, the District Council held oral arguments pursuant to §§ 27-132, 27-523, 27-528.01, and A-9763-C, CDP-9706, and the District Council Rules of Procedure. The applicant was present at oral arguments. The appellant Mark Noblett did not appear for oral arguments. At the conclusion of oral arguments, the District Council, pursuant to §27-132, referred this item to staff to prepare an order of approval with conditions.

¹ See Prince George's County Code, Subtitle 27, Zoning Ordinance, (2008-09 ed., as amended) (hereinafter "§27-__").

Question Presented on Appeal

For clarity, the District Council will restate the question presented by appellant Mark Noblett, and respond accordingly. The question presented on appeal is as follows:

Specific basis for appeal: Item 9, subsection 17.d (1) provides no specific criteria or direction as to when exactly modification of Swanson Road will be required. Rather, modification is left totally arbitrary. Without specific requirements, signalization at Swanson Road, regardless of traffic volume, is totally unlikely. Specifically, I am referring to the following sentence: *“This reconfiguration shall occur at such time in the future when the volume at the intersection warrants the need for signalization.”* I ask that the District Council require Planning Board to provide specific criteria, direction and definition of what exactly will trigger signalization rather than the nebulous and arbitrary statement: *“at some time in the future when traffic volume warrants it.”* See Appellant’s Memorandum, 7/25/2013 (Emphasis in original).

Response: After review of the record before the Planning Board, we find that signalization has been addressed and implemented by the applicant in the Preliminary Plan of Subdivision.² See PGCPB No. 13-77, (6/27/2013 Tr.) Technical Staff Report, with exhibits, 6/19/2013. Therefore, we conclude that the Planning Board committed no factual or legal error in its decision, PGCPB No. 13-77, to approve with conditions SDP-9907/01, to revise the approved transportation improvement staging plan that was approved previously in conjunction with SDP-9907, located in the northeastern portion of the Beech Tree development site, on the west side of Robert Crain Highway (US 301), south of Leeland Road, in Planning Area 79 and Council District 6.

² See §27–141 (The Council may take judicial notice of any evidence contained in the record of any earlier phase of the approval process relating to all or a portion of the same property, including the approval of a preliminary plat of subdivision).

Conditions of Approval

The District Council's affirmance of the Planning Board's decision, PGCPB No. 13-77, approving SDP-9907/01 is subject to the following conditions:

Phase IV: Residential Development—Building Permits 1,001–1,500

1. Prior to issuance of the 1,001st building permit for any residential unit of the Beech Tree development, the applicant shall provide to the State Highway Administration, a complete set of approved design plans and the necessary bonds and fees for the following improvements:
 - a. Widen southbound US 301 to provide three exclusive through lanes from 1,000 feet north of Leeland Road to Beech Tree Parkway.
 - b. Widen northbound US 301 to provide three exclusive through lanes from 1,000 feet south of Leeland Road to 2,000 feet north of Leeland Road.
 - c. Widen Leeland Road to provide two exclusive left-turn lanes and one free-flowing right-turn lane.
2. Prior to issuance of the 1,101st building permit for any residential unit of the development, the developer shall initiate construction of the improvements identified above.
3. Prior to issuance of the 1,251st building permit for any residential unit of the development, the improvements above shall be completed.

Phase V: Residential Development—Building Permits 1,501–1,992

4. Prior to issuance of the 1,501st building permit for any residential unit of the development, the following improvement shall be completed by the applicant:
 - a. Widen southbound US 301 to provide three exclusive through lanes from 2,000 feet south of Trade Zone Avenue to 1,000 feet north of Leeland Road. This improvement will augment an improvement from a previous phase.

Phase VI: Residential Development—Building Permits 1,993–2,400

5. Prior to issuance of the 1,993rd building permit for any residential unit of the development, a schedule for construction of either (a) the improvements in CIP Project FD669161 or (b) the upgrading of US 301 to a fully controlled access

highway between MD 214 and MD 725 shall be provided by the State Highway Administration or by the Department of Public Works and Transportation to the Planning Department.