

RESOLUTION

WHEREAS, Westphalia Row Partners, LLC is the owner of a 3.53-acre parcel of land known as Tax Map 074 in Grid E-4 and is also known as Parcel L-Block A, Westphalia Row, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transportation Oriented (M-X-T); and

WHEREAS, on April 1, 2014, Westphalia Row Partners, LLC filed an application for approval of a Preliminary Plan of Subdivision for 55 lots and two parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-13026 for Westphalia Row was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on July 17, 2014, for its review and action in accordance with the Land Use Article of the Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on July 17, 2014, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan of Subdivision 4-13026, Westphalia Row, including Variations from Sections 24-121(a)(4), 24-128(b)(7)(A), and 24-128(b)(12), for 55 lots and two parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised to make the following technical corrections:
  - a. Label Ritchie-Marlboro Road as a historic road.
  - b. Show all public utility easement connections through private streets and alleys as shown in the utility plan exhibit.
  - c. Label "Denial of Vehicular Access" along the site frontage on Ritchie-Marlboro Road and the Capital Beltway (I-95/495) on ramp.
  - d. Provide in the general notes the floor area ratio for the entire area as approved in Conceptual Site Plan CSP-07001-01.

- e. Revise General Note 8 to reference the most recent stormwater concept plan number and approval date.
  - f. The following note shall be provided on the plan under "Development Standards:"

"The development standards, except for minimum side yards, were approved by the Prince George's County Planning Board pursuant to PGCPB Resolution No. 14-51, and are provided in Condition 7 of the resolution."
  - g. Correct the number of lots to read "55," not "53."
  - h. Correct the error in the approval block to read "TCP," instead of "TRP."
  - i. Remove the dwelling units from the PPS only.
  - j. Have the plan sealed by a professional land surveyor who has prepared it.
  - k. Label Fernwood Drive as a dedicated public right-of-way, with the plat reference, and label the width.
  - l. Remove all development standards, except minimum lot standards.
  - m. Provide the complete legal description of property in General Note 15, with the existing parcel description.
  - n. Update site data to include the number of parcels and acreage, and add a note that they are being conveyed to the homeowners association.
  - o. Label the limit of the stormdrain easement, Liber 4874, Folio 394.
  - p. Delineate the 65 dBA Ldn mitigated noise line and the 45 dBA Ldn noise line.
  - q. Provide distances on all lot lines.
  - r. Delineate the 150-foot lot depth line.
  - s. Label the height of the noise wall.
2. Prior to signature approval of the preliminary plan of subdivision, the applicant shall submit a copy of the recently approved Natural Resources Inventory-Equivalence Letter.
3. Prior to signature approval of the preliminary plan of subdivision, the Type I tree conservation plan shall be revised to:

- a. Add "K. Fritz – June 2, 2008" to the initial approval line on the TCPI approval block.
  - b. Provide an additional column next to the date column and add the appropriate case number next to the previous approval.
  - c. Have the revised plans signed and dated by the qualified professional who prepared them.
4. The following note shall be placed on the final plat of subdivision:

"Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI-033-07-01), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Plan Commission."
5. Development of this site shall be in conformance with Stormwater Management Concept Plan 36373-2006-02 and any subsequent revisions.
6. Prior to issuance of building permits for the proposed residential structures, the applicant shall submit certification by a professional engineer with competency in acoustical analysis to the Environmental Planning Section demonstrating that the design and construction of building shells within the noise corridor of Ritchie-Marlboro Road will attenuate noise to interior noise levels of 45 dBA Ldn or less.
7. Prior to signature approval of the preliminary plan of subdivision, if Alternative Compliance for Section 4.6, Buffering Development from Special Roadways, is not approved by the Planning Board at the time of detailed site plan review, the plan shall be revised to delete Lots 81 and 86 to accommodate appropriate landscape buffering along the frontage of historic Ritchie-Marlboro Road in accordance with the 2010 *Prince George's County Landscape Manual*.
8. At the time of final plat, the applicant and the applicant's heirs, successors, and/or assignees shall grant a public utility easement in accordance with the utility plan and as delineated on the approved detailed site plan.
9. The applicant and the applicant's heirs, successors, and/or assignees shall provide adequate private recreational facilities in accordance with the standards outlined in the *Park and Recreation Facilities Guidelines*. The private recreational facilities shall be reviewed by the Urban Design Section of the Development Review Division (M-NCPPC) for adequacy and property siting, prior to approval of the detailed site plan.

10. The applicant and the applicant's heirs, successors, and/or assignees shall submit three original executed private revised recreational facilities agreements (RFA) to the Development Review Division (M-NCPPC) for their approval three weeks prior to applying for building permits. Upon approval by the Development Review Division, the RFA shall be recorded among the Land Records of Prince George's County, Upper Marlboro, Maryland, and the liber and folio reflected on the final plat.
11. The applicant and the applicant's heirs, successors, and/or assignees shall submit to the Development Review Division (M-NCPPC) a performance bond, letter of credit, or other suitable financial guarantee in an amount to be determined by the Development Review Division, within at least two weeks prior to applying for building permits or as stipulated in the recorded Recreational Facilities Agreement, as amended.
12. The final plat of the subdivision shall contain a note denying access to Ritchie-Marlboro Road and the Capital Beltway (I-95/495) on ramp.
13. Prior to issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

- **Sansbury Road/D'Arcy Road intersection (unsignalized)**

The applicant shall provide separate left- and right-turn lanes for the D'Arcy Road approaches. Since these additional improvements will not lower the delay below 50 seconds in any given movement, and per the requirement of the Department of Public Works and Transportation (DPW&T), the applicant shall conduct a traffic signal warrant study and install a signal if deemed to be warranted AND approved by DPW&T.

- **Sansbury Road/Ritchie-Marlboro Road Intersection**

The applicant shall provide the addition of a third eastbound and westbound through lane on Ritchie-Marlboro Road.

- **Ritchie Marlboro Road/White House Road intersection**

Northbound approach: Two left-turn lanes and a shared left/through-right lane.

14. Total development shall be limited to residential development or equivalent development which generates no more than 38 AM peak-hour trips and 44 PM peak-hour trips. These peak-hour trips are a part of the trip cap established for Preliminary Plan of Subdivision 4-07038. Any

development generating an impact greater than that identified herein above shall require a new preliminary plan with a new determination of adequacy of transportation facilities.

15. Approval of this preliminary plan of subdivision shall supersede Preliminary Plan 4-07038 (PGCPB Resolution No. 08-07) for the development of Phase II of Westphalia Row.
16. Prior to issuance of building permits in Phase II, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association (HOA) 2± acres of open space land (Parcels N & M). The land to be conveyed shall be subject to the following:
  - a. Conveyance shall take place prior to issuance of building permits.
  - b. A copy of the recorded special warranty deed for the property to be conveyed shall be submitted to the Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George's Planning Department, Subdivision Review Section of the Development Review Division (DRD), Upper Marlboro.
  - c. Upon completion of any phase, section, or the entire development, all waste matter of any kind shall be removed from the property and all disturbed areas shall be stabilized. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse, or similar waste matter.
  - d. Any disturbance of land to be conveyed to a HOA shall be in accordance with an approved plan or shall require the written consent of the Development Review Division (DRD). This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair, or improvements required by the approval process.
  - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to issuance of grading or building permits.
  - f. Temporary or permanent use of land to be conveyed to a HOA for stormwater management shall be approved by DRD.
  - g. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
  - h. Further subdivision of this land is strictly controlled.

17. The following note shall be placed on the final plat:

“This property is located within the Joint Base Andrews (JBA) Interim Land Use Control (ILUC) impact area.”

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on Tax Map 074 in Grid E-4 and is known as Parcel L–Block A, Westphalia Row; recorded in Plat Book MMB 235-89 in the Prince George's County Land Records. The property consists of 3.53 acres within the Mixed Use–Transportation Oriented (M-X-T) Zone and is currently undeveloped. The site was previously approved as part of Preliminary Plan of Subdivision (PPS) 4-07038 (22.44 acres). The PPS proposes the conversion of 96 condominium triplex-units, previously approved under Conceptual Site Plan CSP-07001, PPS 4-07038, and Detailed Site Plan DSP-08039 (and subsequent revisions), to 55 fee-simple townhouse dwelling unit lots, along with a minor change in the configuration of the private streets. Section 24-107 of the Subdivision Regulations states that “no land shall be subdivided within the Regional District in Prince George's County until the subdivider or his agent shall obtain approval of the preliminary plan and final plat by the Planning Board,” resulting in this application. This PPS was approved concurrently with DSP-08039-06.

The 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA) rezoned this property from Rural-Residential (R-R) and Residential-Agricultural (R-A) to M-X-T. The property is located in a designated mixed-use activity center as identified in the sector plan. The Westphalia Row project has been divided into three development phases. The table shown below breaks down the previous approvals for each development phase:

Previous Approvals	Development Phase
CSP-07001 CSP-07001-01	Phases I - III
4-07038	Phases I - III
DSP-08039	Phase I
DSP-08039-01	Phase II
4-13026	Phase II
DSP-08039-06	Phase II

Conceptual Site Plan CSP-07001-01 was approved by the Prince George's County Planning Board on June 5, 2014 (PGCPB Resolution No. 14-51) for Phases I – III, with 24 conditions. This PPS has been reviewed for conformance to the conditions of CSP 07001-01, as further discussed in the

Previous Approvals Finding. Phase II of development, which is the subject of this PPS, contains no regulated environmental features such as streams, wetlands, or associated 100-year floodplain.

The site is adjacent to Ritchie-Marlboro Road which is designated as a historic road in the 2009 *Approved Countywide Master Plan of Transportation* (MPOT). Section 4.6 of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) (Buffering Development from Special Roadways), requires a landscape buffer. The site is within the geographical area previously designated as the Developing Tier. In the Developing Tier the required buffer along a historic road is a minimum of twenty feet wide. This PPS reflects two lots within the required buffer. The applicant has requested Alternative Compliance which will be reviewed with the DSP. If Alternative Compliance is not approved by the Planning Board, the PPS shall be revised prior to signature approval to remove the two lots and accommodate appropriate landscape buffering for the frontage of historic Ritchie-Marlboro Road in accordance with the Landscape Manual.

The geographical boundary of this PPS (3.53 acres) is part of the prior approved Preliminary Plan of Subdivision PPS 4-07038 (22.44 acres) for the Westphalia Row project. The prior approval included a trip cap of 398 AM peak trips and 471 PM peak-hour trips for all three phases of development. As the subject application is proposing the conversion of 96 triplex units to 55 townhouses; this change, if approved, will result in a trip generation of 38 AM and 44 PM peak-hour trips for Phase II. This trip generation and the associated trip cap that is to be conditioned with the approval of this PPS is a part of the 398 AM and 471 PM peak-hour trip cap previously approved under PPS 4-07038.

3. **Setting**—The property is located in the southeast quadrant of the intersection of Ritchie-Marlboro Road and the Capital Beltway (I-95/495). To the northwest of the subject site is an exit ramp leading from I-95/495 to Ritchie-Marlboro Road. To the east and south are other M-X-T-zoned properties, including a townhouse development (Phase I Westphalia Row). The property north of the site, across Ritchie-Marlboro Road, is zoned Planned Industrial/Employment Park (I-3) and currently undeveloped.

4. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	M-X-T	M-X-T
Use(s)	Vacant	Townhouse Dwelling Units
Acreage	3.53	3.53
Lots	0	55
Outlots	0	0
Parcels	1	2
Dwelling Units	0	55
Public Safety Mitigation Fee	No	No
Variance	No	No
Variation	No	Yes (Sections 24-121(a)(4), 24-128(b)(7)(A), and 24-128(b)(12))

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) meetings on April 11, 2014 and May 9, 2014. As discussed in the report and as required by Section 24-113(b) of the Subdivision Regulations, the requested variations to Sections 24-121(a)(4) and 24-128(b)(7)(A) were accepted on April 1, 2014 and were heard on April 11, 2014 at the SDRC meeting. Additionally, the requested variation to 24-128(b)(12) was accepted on April 29, 2014 and was heard on May 9, 2014 at the SDRC meeting.

5. **Community Planning**—The *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) designates the property as mixed-use. According to Plan Prince George's 2035, the intent of the Mixed-Use category is as follows: "Areas of various residential, commercial, employment and institutional uses. Residential uses may include a range of unit types. Mixed-use areas may vary with respect to their dominant land uses, i.e. commercial uses may dominate in one mixed-use area, whereas residential uses may dominate in another." While this phase of the Westphalia Row project is residential, the overall Westphalia Row is mixed use as it contains both residential and commercial uses. This application is within the Joint Base Andrews (JBA) Interim Land Use Control (ILUC) impact area, Height Zone F.

The Westphalia Sector Plan and SMA rezoned the subject property from R-R and R-A to the M-X-T Zone. This application is in conformance with the land use recommendations of the Sector Plan and SMA.

The Westphalia Row project is located in a designated mixed-use activity center at the northern gateway to the sector plan along a local street (Sansbury Road) and an arterial roadway (Ritchie-Marlboro Road), close to the interchange for the Capital Beltway (I-95/495). The original conceptual site plan for Westphalia Row, CSP-07001, was approved by the Planning Board on January 10, 2008 (PGCPB Resolution No. 08-06). The townhouse portion (Phase I) of the project



is currently under construction. At this time, the applicant proposes to replace 96 previously approved triplex units with 55 rear-loaded townhouse dwelling units located in the northwest portion of the overall site (Phase II). The original intent of the project was to create a mixed-use walkable community. Replacing the triplex units with rear-loaded townhouse units will not compromise the original design intent of the project, and will not be inconsistent with the recommended development pattern vision, goals or policy contained in the Westphalia Sector Plan for mixed-use activity centers.

This project is located within a designated “gateway” in the Westphalia Sector Plan. Policy 7 on page 32 of the sector plan specifically establishes the intersection of Ritchie-Marlboro Road and Sansbury Road as one of the gateways entering the Westphalia community. Gateways require compliance with design principles aimed at distinguishing and delineating them as attractive entrances into the sector. Gateway design principles from the Westphalia Sector Plan include the following:

“Design designated gateways to include at least the following design elements:

- Landmark elements such as entrance signage, artwork, monuments constructed on features such as stone or masonry, decorative columns, water features, or clock towers.
- Landscape design including both softscape and hardscape elements.
- Resting and recreational facilities, information kiosks, or other amenities as appropriate.”

The design of buildings, landscaping, signs and any special features along the Ritchie-Marlboro Road frontage as well as Sansbury Road are critical to the image of Westphalia that will be portrayed at this northern entryway. These design elements are being reviewed with the companion Detailed Site Plan (DSP-08039-06).

#### **Westphalia Sector Development Review Advisory Council**

This PPS is located within geographical boundary of the Westphalia Sector Plan and SMA, and is therefore under the purview of the Westphalia Sector Development Review Advisory Committee (WSDRAC), pursuant to County Council Resolutions CR-6-2009, CR-80-2009, CR-57-2010, and CR-30-2014. The PPS has been referred to the WSDRAC for review and comment. Per an e-mail dated July 2, 2014, WSDRAC met with the developer’s representative, Mr. Arthur J Horne, Jr. Esq., regarding the PPS and has no objections.

6. **Previous Approvals**—On June 5, 2014, the Planning Board reviewed and approved Conceptual Site Plan CSP-07001-01 for Westphalia Row (PGCPB No. 14-51), which includes the subject property. The CSP was approved with 24 conditions (and the following conditions in **boldface text** are related to the review of this PPS:

5. **Prior to approval of a future detailed site plan for the proposed townhouses, the arrangement of the townhouse units between Private Road "C" and Ritchie-Marlboro Road shall be designed to front on Ritchie-Marlboro Road as well as on Private Road "C," consistent with what is shown on the subject CSP. Public views of alleys should be minimized by screening the ends of alleys to the fullest extent possible.**

While the above condition is applicable at the time of DSP review, the proposed townhouse layout is consistent with the direction set forth in this condition.

7. **The following development standards shall apply to and be reflected on the Detailed Site Plan. At the time of Detailed Site Plan review, the Planning Board may make modifications to the development standards without the need to amend the Conceptual Site Plan if the Planning Board finds such modification is appropriate and consistent with the character and quality of the development envisioned by the conceptual site plan and the sector plan.**

- a. **Front-loaded townhouses (fee simple)**

- (1) **Minimum lot size: 1300 square feet**
- (2) **Minimum front yard setback: 20 feet from back of sidewalk**
- (3) **Minimum yard area: 400 square feet**
- (4) **Maximum building height: 45 feet**
- (5) **Minimum lot width: 20 feet**

- b. **Rear-loaded townhouses (fee simple)**

- (1) **Minimum lot size: 1,000 square feet for no less than 50 percent of the unit and a minimum of 800 feet for the remainder.**
- (2) **Minimum front yard setback: 6 feet from property line.**
- (3) **Maximum building height: 45 feet.**
- (4) **Minimum lot width: 20 feet for no less than 50 percent of the units and a minimum of 16 feet for the remainder.**

- c. **Multifamily, office, and retail buildings**

- (1) **Buildings shall be set back 15–35 feet from the ultimate right-of-way line of Ritchie-Marlboro Road. Building walls**

**must be within 35 feet of the ultimate right-of-way line for at least 75 percent of the linear distance of the parcel's frontage on Ritchie-Marlboro Road.**

- (2) Buildings shall be set back 15–25 feet from the ultimate right-of-way line of Sansbury Road. Building walls must be within 25 feet of the ultimate right of way line for at least 75 percent of the linear distance of the parcel's frontage on Sansbury Road.**
- (3) Maximum building height: 75 feet.**

The PPS proposes rear-loaded townhouses, which are subject to the development standard contained in Condition 7(b). These development standards are accurately reflected on the PPS. All of the proposed lots are greater than 1,000 square feet in area, which meets the minimum standard set forth for rear-loaded townhouses. The plan also brings forward development standards for side yards which are not addressed in the above condition. Conformance to specific building standards will be evaluated further at the time of DSP.

- 10. The Applicant, his successors, and/or assignees shall provide adequate private recreational facilities in accordance with the standards outlined in the Park and Recreation Facilities Guidelines. The private recreational facilities shall be reviewed by the Urban Design Section of Development Review Division for adequacy and property sitting, prior to approval of the Detailed Site Plan by the Planning Board.**
- 11. The Applicant, his successors, and/or assignees shall submit three (3) original, executed private Recreational Facilities Agreements (RFA) to the Development Review Division for their approval three weeks prior to applying for building permits. Upon approval by the Development Review Division, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.**
- 12. The Applicant, his successors, and/or assignees shall submit to the Development Review Division a performance bond, letter of credit, or other suitable financial guarantee in an amount to be determined by the Development Review Division, within at least two (2) weeks prior to applying for building permits.**
- 14. The private recreational facilities package to be provided by this development shall include those facilities proposed with the Conceptual Site Plan application, which includes two (2) outdoor play areas for children.**

The private recreational facilities, recreational facilities agreement, and suitable financial guarantee required in Conditions 10–12, and 14 are discussed in the Parks and Recreation Finding.

**18. The Applicant shall provide standard sidewalks along both sides of Private Roads A, B, C, and D.**

Private Roads A–D are located within Phase I of development and are not in the scope of this review. However, sidewalks are shown on the PPS and will be further reviewed with the DSP.

**23. The Applicant has indicated a desire to be a part of the established Westphalia Financing Plan. Therefore, at the time of the Detailed Site Plan, if the Applicant is a recognized participant in a designated Westphalia Financing Plan, any designated financial contributions to the overall Westphalia Plan, including contributions to the Central Park, shall be so designated as a condition on the detailed site plan, as part of the established financing formula and plan.**

The original Conceptual Site Plan CSP-07001 was approved before financing mechanisms for Westphalia had been established. The subject PPS, which proposes a reduction in the previously approved number of units, will be serviced by private on-site facilities as originally envisioned with the approval of the CSP, PPS, and DSP.

7. **Urban Design**—This site is located in one of nine gateways into Westphalia area by the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA), and as the location of a mixed-use village center.

**Conformance with the Requirements of the Zoning Ordinance**

The application is subject to the requirements of Section 27-547, Uses Permitted, of the Zoning Ordinance. The proposed uses are permitted uses in the M-X-T Zone and the proposed floor area ratio (FAR) is provided on the PPS. However, the Zoning Ordinance states that the FAR should be calculated for the entire area of the Conceptual Site Plan. The overall FAR for the site is 1.4, which is the maximum FAR that is allowed on the site with the use of the residential use bonus incentive only. Additional density may be permitted in accordance with Section 27-545, Optional method of development, of the Zoning Ordinance.

Developments in the M-X-T Zone are required to have vehicular access to a public street in accordance with Section 27-548(g) noted below:

- (g) Each lot shall have frontage on, and direct vehicular access to, a public street, except lots for which private streets or other access rights-of-way have been authorized pursuant to Subtitle 24 of this Code.**

While the overall development is accessed by public streets, the individual townhouse lots will be served by private streets and alleys. A variation for the use of private streets and alleys serving lots fronting on open space has been requested by the applicant, and is approved.

The site is subject to Section 27-544(b)(2), which states:

- (2) **The limitations on the maximum percentages of townhouses contained in Section 27-547(b)(7), footnote 7 and the lot size and lot width requirements in Section 27-548(h) shall not apply. However, the Planning Board or District Council may impose similar restrictions where appropriate, only to implement the recommendations of the Master Plan or Sector Plan.**

The Planning Board and District Council have imposed minimum lot size restrictions and other development standards on the subject site in accordance with this section. At the time of conceptual site plan approval for Westphalia Row, the Planning Board considered the standards contained in the Westphalia Sector Plan and SMA in establishing minimum lot sizes and setback standards for the proposed development. No limitation on the percentage of townhouses was established.

Conformance with the requirements of Section 27-546, Site Plans in the M-X-T Zone, Part 11, Off-Street Parking and Loading, and Part 12, Signs, of the Zoning Ordinance is required for the proposed development and will be evaluated at the time of DSP.

#### **2010 Prince George's County Landscape Manual**

Per Section 27-548 of the Zoning Ordinance, landscaping, screening, and buffering within the M-X-T Zone shall be provided pursuant to the provisions of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The following discussion is offered regarding the applicable provisions of the Landscape Manual, which will be reviewed at the time of DSP.

- (1) **Section 4.1—Residential Requirements**, requires a certain number of plants to be provided for residential lots depending on their size and type.
- (2) **Section 4.6—Compliance with Section 4.6, Buffering Development from Special Roadways**, is required along Ritchie-Marlboro Road, which is a designated historic road. The site is within the geographical area previously designated as the Developing Tier as reflected on Attachment H(5) of the *Plan Prince George's 2035 Approved General Plan* found in Prince George's County Planning Board Resolution No. 14-10 (see County Council Resolution CR-26-2014, Revision No. 31); therefore, a 20-foot-wide planting strip is required. A full 20-foot-wide bufferyard is not provided on the PPS. Based on the submitted plan, Alternative Compliance or a departure will be necessary at the time of detailed site plan. If an Alternative Compliance application or a departure is not granted at

the time of DSP review, the plan will need to be revised to fully conform to this requirement, which could require an elimination of two lots (Lots 81 and 86).

- (3) **Section 4.7**—This site will be subject to Section 4.7, Buffering Incompatible Uses. More specific information regarding bufferyard requirements along property lines adjoining other uses will be evaluated at the time of DSP.
- (4) **Section 4.9**—This site will be subject to Section 4.9, Sustainable Landscaping Requirements, which requires that a percentage of the proposed plant materials be native plants.
- (5) **Section 4.10**—This site will be subject to Section 4.10, Street Trees Along Private Streets, which requires street trees along private streets.

#### **Tree Canopy Coverage Ordinance**

The Tree Canopy Coverage Ordinance requires ten percent tree canopy coverage for properties zoned M-X-T. Therefore, the subject 3.53-acre property must provide 0.353 acre of site area covered by tree canopy. This requirement can be met either through the preservation of existing trees, proposed on-site landscaping, or a combination of both, and will be evaluated at the time of DSP review.

#### **Additional Comments**

Appropriate on-site usable green space and recreational facilities should be provided for future residents. Private on-site recreational facilities are required on the subject site pursuant to approval of Conceptual Site Plan CSP-07001-01 for the entirety of Westphalia Row, Phases I–III. On-site private recreational facilities will be provided for the 55 townhouse lots proposed in the subject PPS (Phase II), within Phases I and II, and accessible to all residents. Recreation areas will be centrally located on the site and include active and passive recreational facilities, such as playgrounds, amenity rooms/clubhouses, outdoor siting areas, and walking trails for future residents. Green building techniques should be employed in this development to the extent practical.

- 8. **Environmental**—The PPS and a Type I Tree Conservation Plan, TCPI-033-07-01, stamped as received on April 1, 2014, have been reviewed for conformance to the Subdivision Regulations (Subtitle 24). This PPS is subject to the environmental regulations of Subtitle 25 that came into effect on September 1, 2010 and February 1, 2012 because it is a new application. However, the project is not subject to Subtitle 25, the Woodland and Wildlife Habitat Conservation Ordinance (WCO), that became effective September 1, 2010 and February 1, 2012 because the previously approved TCP was approved prior to September 1, 2010, and a permit was issued. There are no significant changes to the limits of disturbance.

#### **Conformance to the Master Plan**

The master plan for this area is the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA). The Sector Plan and SMA contain four policies related to Environmental Infrastructure that are pertinent to the review of this PPS. The **boldface text** is from the sector plan and the plain text provides comments on sector plan conformance.

**POLICY 1. Protect, preserve, enhance the identified green infrastructure network within the Westphalia sector planning area.**

The site is not located within the defined network of the Countywide Green Infrastructure Plan.

**POLICY 2. Restore and enhance water quality of receiving streams that have been degraded and preserve water quality in areas not degraded.**

- a. **Remove agricultural uses along streams and establish wooded stream buffers where they do not currently exist.**
- b. **Require stream corridor assessments using Maryland Department of Natural Resources protocols and include them with the submission of a natural resource inventory as development is proposed for each site. Add stream corridor assessment data to the countywide catalog of mitigation sites.**
- c. **Coordinate the road network between parcels to limit the need for stream crossings and other environmental impacts. Utilize existing farm crossings where possible.**
- d. **Encourage shared public/private stormwater facilities as site amenities.**
- e. **Ensure the use of low-impact development (LID) techniques to the fullest extent possible during the development review process with a focus on the core areas for use with bio-retention and underground facilities.**

The area within Phase II of the development contains no wetlands, streams, floodplain, or their associated buffers. There will be no reforestation located within the project area, but there will be woodland plantings in other phases of the overall development (4-07038). These plantings will contribute to water quality and storage controls before water enters the on and off-site environmentally sensitive areas.

The project has an approved stormwater management concept plan that covers Phases I-III of the development. The stormwater management design is conceptually and technically required to be reviewed and approved by the Department of Public Works and Transportation (DPW&T) to address surface water runoff issues in accordance with

Subtitle 32 Water Quality Resources and Grading Code, which requires that Environmental Site Design be implemented to the maximum extent practicable.

**POLICY 3. Reduce overall energy consumption and implement more environmentally sensitive building techniques.**

- a. **Encourage the use of green building techniques that reduce energy consumption. New building designs should strive to incorporate the latest environmental technologies in project buildings and site design. As redevelopment occurs, the existing buildings should be reused and redesigned to incorporate energy and building material efficiencies.**
- b. **Encourage the use of alternative energy sources such as solar, wind and hydrogen power. Provide public examples of uses of alternative energy sources.**

The development applications for the subject property which require architectural approval should incorporate green building techniques and the use of environmentally sensitive building techniques to reduce overall energy consumption. The use of green building techniques and energy conservation techniques should be encouraged and implemented to the greatest extent possible at the time of DSP.

**POLICY 4. Plan land uses appropriately to minimize the effects of noise from Andrews Air Force Base and existing and proposed roads of arterial classification and higher.**

This site is located within the Joint Base Andrews (JBA) Interim Land Use Control (ILUC), but is not within the impact area for noise.

**Conformance with the Green Infrastructure Plan**

The 2005 *Approved Countywide Green Infrastructure Plan* (Green Infrastructure Plan) indicates that none of the property is within the designated network. There are on-site stream systems that are regulated streams within the overall development, but are not recognized as Green Infrastructure Plan areas.

**Conformance with the 2010 Water Resources Functional Master Plan**

The 2010 *Approved Water Resources Functional Master Plan* contains policies and strategies related to the sustainability, protection and preservation of drinking water, stormwater, and wastewater systems within the county, on a county wide level. These policies are not intended to be implemented on individual properties or projects and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans, county ordinances for stormwater management, 100-year floodplain and woodland conservation, and programs implemented by the Prince George's County



Department of Permitting, Inspections and Enforcement (DPIE), Prince George's County Department of Health, Prince George's County Department of Environmental Resources (DER), Prince George's Soil Conservation District, Maryland-National Capital Park and Planning Commission (M-NCPPC) and Washington Suburban and Sanitary Commission (WSSC) are also deemed to be consistent with this master plan.

### **Environmental Review**

A review of the available information indicates that streams, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are found to occur within the entire Westphalia Row development. The site is adjacent to the Capital Beltway, which is a source of traffic-generated noise. The soils found to occur on this site according to the Prince George's County Soil Survey are in the Adelphia, Collington, Ochlockonee, Rumford, Sandy, Sassafras, and Westphalia soil series. According to available information, Marlboro clay does not occur on this property. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit review process. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. This site is also located in the Southwest Branch watershed of the Patuxent River basin.

A signed Natural Resources Inventory (NRI/114/06) for the entire Westphalia Row development was submitted with the application. The project area within the boundary of this PPS (Phase II) contains no regulated environmental features. This NRI was approved in 2006 and is not valid because the approval is over five years old. The site has been developed, except for the current application area. A Natural Resources Inventory-Equivalence Letter has been approved for the application area. Prior to the signature approval of the PPS, the applicant should submit a copy of the recently approved Natural Resources Inventory-Equivalence Letter.

As previously stated, this property is not subject to the provisions of the Prince George's County Woodland Conservation Ordinance, because it is part of a previously approved Tree Conservation Plan. A revised Type I tree conservation plan has been submitted with this application. This 22.44-acre property that is the subject to the TCPI contains a total of 8.74 acres of woodland outside the floodplain according. The TCPI shows areas of woodland clearing resulting in a total requirement of 7.29 acres. A portion of Woodland Clear Area #1 is located in Phase II. The plan proposes to meet the requirement by providing 0.19 acre of woodland preservation, 0.65 acre of afforestation/reforestation, and 6.45 acres of off-site mitigation. No woodland preservation or afforestation/reforestation is shown within Phase II.

This property is located on the eastern side of the Capital Beltway (I-95/495), a master plan freeway, and on the south side of Ritchie-Marlboro Road, a master plan arterial. Both are considered transportation-related noise generators. A Phase II noise study, dated October 27, 2008, containing numerous recommendations addressing building materials to be used to mitigate interior noise levels was submitted with Detailed Site Plan DSP-08039. An addendum to the noise study, dated January 26, 2009, was submitted with this application.

Several of the proposed lots and an outdoor play area are noted to be within the noise impact area. To mitigate outdoor and interior noise in this area, a noise wall is shown to be constructed. To mitigate interior noises to below 45 dBA Ldn applications for building permits should contain a certification, to be submitted to M-NCPPC, prepared by a professional engineer with competency in acoustical analysis that the interior noise levels have been reduced through the proposed building materials to 45 dBA Ldn or less. The 65 dBA Ldn mitigated noise line should be delineated and labeled on the plan.

9. **Primary Management Area (PMA)**—The site contains significant environmental features that are required to be protected under Section 24-130 of the Subdivision Regulations. However, all PMA impacts were previously approved with the Conceptual Site Plan (CSP-07001), Preliminary Plan of Subdivision (4-07038), and Detailed Site Plans (DSP-08024 and DSP-08039) for the subject property. No PMA impacts were approved with this application.
10. **Stormwater Management**—The Department of Permitting, Inspections and Enforcement (DPIE) has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, 36373-2006-03, for the site was approved with conditions on July 8, 2014 and is valid until March 15, 2016. The approval letter states that project will pay a fee-in-lieu of providing on-site attenuation/quality control measures. The submitted stormwater management concept plan shows the use of one extended detention facility outside of Phase II. No underground stormwater facilities area proposed on the concept plan. Changes have been made to the proposed lot layout which required revisions to the stormwater management concept plan, which has been submitted.

The approved stormwater management plan is required to be designed in conformance with any approved watershed management plan pursuant to Subtitle 32, Water Resources and Protection; Division 3, Stormwater Management Plan; and Section 172, Watershed Management Planning, of the Prince George's County Code. As such, the requirement of Section 24-130(b)(4) of the Subdivision Regulations, which requires that a subdivision be in conformance with any watershed management plan, has been addressed with the approval of the stormwater management concept plan by DPIE.

11. **Parks and Recreation**—The PPS has been reviewed for conformance with the requirements of approved Conceptual Site Plan CSP-07001-01, the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*, conditions of Council Resolution CR-2-2007, the Land Preservation and Recreation Program for Prince George's County, and current zoning and subdivision regulations as they pertain to public parks and recreation. The recreation areas shown on the PPS are consistent with those shown on the CSP, and consistent with previous DSP approvals for Phase I of the Westphalia Row development, which are outside of the preliminary plan area. The PPS shows the location of one sitting area. The larger development will include a village green, community center, and two outdoor playgrounds, which will be accessible to future residents of Phase II of the development.

Preliminary Plan of Subdivision 4-07038 for Phases I–III was previously approved for private recreational facilities in accordance with Section 24-135(b) of the Subdivision Regulations and with the standards outlined in the *Park and Recreation Facilities Guidelines*. The amount and type of facilities was established by a recreational facilities agreement (RFA) which is recorded in Liber 31300 at Folio 291 in the county Land Records. The RFA establishes facilities for Phases I and II of development, as well as permit triggers and other terms for the required performance bond. The performance bond trigger for submittal has not yet occurred. The RFA will be revised in accordance with the conditions of the DSP.

12. **Trails**—This PPS has been reviewed for conformance with Section 24-123 of the Subdivision Regulations, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), and the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* in order to implement planned trails, bikeways, and pedestrian improvements.

Bicycle and pedestrian facilities have been addressed for all three phases of the Westphalia Row development. Condition 18 of PPS 4-07038 and Conditions 5 and 6 of DSP-08038 addressed master plan trails, sidewalks, and bicycle facilities. The modifications proposed in the subject application do not impact the master plan facilities. The subject application includes standard sidewalks along appropriate road frontages, sidewalk connections between some units, and crosswalks at appropriate locations. Prior conditions of approval for facilities on Westphalia Row, but outside the subject application, still apply. There are no master plan trails recommendations.

13. **Transportation**—The prior PPS approval (4-07038), which included a trip cap of 398 AM peak-hour trips and 471 PM peak-hour trips, was tied to the entire site of 22.44 acres: Phases I, II, and III. This section (Phase II) of the larger development was approved for a use of 96 triplex dwelling units. The 96 triplex units would generate 67 AM and 77 PM peak-hour trips, respectively. As the subject application is proposing the conversion of 96 triplex units to 55 townhouses, this change, if approved, will result in a trip generation of 38 AM and 44 PM peak-hour trips. The change of dwelling types will result in a reduction of 29 AM and 33 PM peak-hour trips for this area. In light of the fact that the proposed development represents a reduction in traffic from what was previously approved in this phase, staff concludes that this development's traffic impact is *de minimus*. No additional right-of-way dedication is required at this time. However, conditions of approval on which the adequacy of transportation facilities are based are applicable to Phase II.

The trip generation and the associated trip cap that is to be conditioned with the approval of this PPS is to be considered a part of the 398 AM and 471 PM peak-hour trips previously approved under PPS 4-07038. In a letter dated July 2, 2014 (Balian to Mayah), the applicant has agreed to set the trip cap for this PPS to the proposed 55 townhouse dwelling unit lots, thereby allocating the 38 AM and 44 PM peak-hour trips previously discussed to the geographical area that is the subject of this PPS. The remaining 29 AM and 33 PM peak-hour trips may be used for subsequent development within Westphalia Row project area that was approved under PPS 4-07038.

### **Transportation Findings**

The site is within the geographical area previously designated as the Developing Tier as reflected on Attachment H(5) of the *Plan Prince George's 2035 Approved General Plan* found in PGCPB Resolution No. 14-10. As such, the subject property is evaluated according to following standards:

**Links and Signalized Intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections subject to meeting the geographical criteria in the "*Guidelines*."

**Unsignalized Intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure, (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, and (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure, and (b) if delay exceeds 50 seconds, the CLV is computed. Once the CLV exceeds 1,150 for either type of intersection, this is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Condition 10 of PGCPB Resolution No. 08-07 for PPS 4-07038 required the following road improvements in order to satisfy traffic adequacy, which are addressed below:

10. **Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency.**

#### **Sansbury Road/D'Arcy Road intersection (unsignalized)**

**The applicant shall provide a separate left and right turn lanes for the D'Arcy Road approaches. Since these additional improvements will not lower the delay below 50 seconds in any given movement, and per the requirement of DPW&T, the applicant shall conduct a traffic signal warrant**

**study and install a signal if deemed to be warranted AND approved by DPW&T.**

This condition remains valid and should be maintained as a condition of approval for this PPS.

**Sansbury Road/Ritchie-Marlboro Road intersection**

**Provide the addition of a third eastbound and westbound through lane on Ritchie-Marlboro Road.**

This condition remains valid and should be maintained as a condition of approval for this PPS.

**Ritchie Marlboro Road/White House Road intersection**

**Provide the following improvements:**

- **Northbound approach: 2 left-turn lanes and a shared left/through-right lane**

This condition remains valid and should be maintained as a condition of approval for this PPS.

Based on the fact that the subject application is *de minimus* to the previous finding of adequate transportation facilities made with PPS 4-07038, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124.

14. **Variation**—The applicant has filed variation requests from Sections 24-121(a)(4), 24-128(b)(7)(A), and 24-128(b)(12) of the Subdivision Regulations.

**Variation from Section 24-121(a)(4)**

The PPS proposes a minimum lot depth of less than 150 feet for lots that are adjacent to Ritchie-Marlboro Road, which is a roadway of arterial classification. Lots 40–43, 59–62, 71, and 76–94 are subject to this variation; totaling 27 lots. Section 24-121(a)(4) states:

- (4) **Residential lots adjacent to existing or planned roadways of arterial classification shall be platted with a minimum depth of one hundred and fifty (150) feet. Residential lots adjacent to an existing or planned roadway of freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided**

**by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate.**

Section 24-113(a) sets forth the required findings for approval of variation requests as follows:

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

Approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-121 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

- (1) **The granting of the variation will not be detrimental to the public safety, health, welfare, or injurious to other property;**

The PPS shows the provision of a noise wall between the arterial roadway and the proposed development. This noise wall will provide adequate protection and screening from traffic noise and nuisances for the property that is within the PPS boundary.

- (2) **The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The Westphalia Row development is situated on a parcel of land that is bounded to the north and west by and off-ramp from the Capital Beltway (I-95/495) and Ritchie-Marlboro Road, which are designated as arterial roadways. This is the only property located in this quadrant and has extensive frontage on these limited access roadways.

- (3) **The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and**

The only regulation applicable to the variation being discussed is Section 24-121(a)(4). Therefore, approval of this variation will not constitute a violation of any other applicable law, ordinance, or regulation.

- (4) **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if strict letter of these regulations is carried out;**

Adherence to the requirements of Section 24-121(a)(4), in this case, would result in the loss of 27 lots, which is 49 percent of the lots proposed; due to the substantial length of the property frontage on an arterial road. This would result in a particular hardship to the applicant.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones. Therefore, this finding does not apply.

The Planning Board approved this variation to Section 24-121(a)(4).

**Variation from Section 24-128(b)(7)(A)**

The PPS proposes rear-loaded townhome dwelling unit lots that are served by private alleys and have frontage on and pedestrian access to private streets and homeowners association (HOA) parcels instead of public rights-of-way. Lots 77-81 and 87-94, totaling 14 lots, are proposed to front on HOA open space land, and the remaining lots are proposed to front on private streets. Section 24-128(b)(7)(A) states the following:

- (A) **For land in the V-L, V-M, R-L, R-S, R-M, R-U, M-U-I, L-A-C, M A C, M-X-C, M-U-TC, and M-X-T Zones, the Planning Board may approve a subdivision (and all attendant plans of development) with private roads to serve attached single-family dwellings, two-family dwellings, and three-family dwellings, but not single-family detached or multifamily dwellings, in accordance with the requirements of Subsections (e) and (f) of Section 27-433 of the Zoning Ordinance, except as hereinafter provided. In all of the above zones, and in the R-R Zone when developed as a cluster**

**subdivision, the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way. The District Council may disapprove the inclusion of alleys during the consideration of the detailed site plan for a cluster subdivision. For the purposes of this Section, an "alley" shall mean a road providing vehicular access to the rear or side of abutting lots, and which is not intended for general traffic circulation.**

Section 24-113(a) sets forth the required findings for approval of variation requests as follows:

- (a) Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

Approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-128 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

- (1) The granting of the variation will not be detrimental to the public safety, health, welfare, or injurious to other property;**

The approval of this variation will not be injurious or detrimental to other property because it pertains only to the positioning of buildings that will be situated on lots that are internal to the PPS. Moreover, any potential vehicular safety hazard to the owners of these lots would be reduced or diminished, as private alleys carry less vehicular traffic and open space parcels carry no traffic at all.

- (2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The land within the Westphalia Row development is zoned M-X-T and has an approved CSP, PPS, and DSP allowing smaller lots and higher density than what is generally permitted in residential zones. Additionally, the size of the development parcel (3.53 acres) inhibits the implementation of public streets that serve each proposed lot, as they are generally required to be wider than private



alleys. In order to realize the permitted density, the use of alleys serving lots fronting on open space and private streets is appropriate.

- (3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and**

The only regulation applicable to the variation being discussed is Section 24-128(b)(7)(A). Therefore, approval of this variation will not constitute a violation of any other applicable law, ordinance, or regulation.

- (4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if strict letter of these regulations is carried out;**

As previously stated, the land within the Westphalia Row development is zoned M-X-T and has an approved CSP, PPS, and DSP allowing smaller lots and higher density than what is generally permitted in residential zones. Additionally, the size of the development parcel (3.53 acres) inhibits the implementation of public streets that serve each proposed lot, as they are generally required to be wider than private alleys. In order to realize the permitted density, alternative layouts have been proposed by the applicant. The size of the development parcel (3.53) is therefore inhibitive to the applicant's ability to adhere to this regulation.

- (5) In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones. Therefore, this finding does not apply.

The Planning Board approved this variation to Section 24-128(b)(7)(A).

**Variation to Section 24-128(b)(12)**

Lastly, the PPS proposes a public utility easement (PUE) contiguous to the rights-of-way and within private streets that are less than the minimum ten-foot width required.

Section 24-128(b)(12) states the following:

- (12) **Private roads provided for by this Subsection shall have a public utility easement contiguous to the right-of-way. Said easement shall be at least ten (10) feet in width, and shall be adjacent to either right-of-way line.**

Section 24-113(a) sets forth the required findings for approval of variation requests as follows:

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

Approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-128 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

- (1) **The granting of the variation will not be detrimental to the public safety, health, welfare, or injurious to other property;**

The location of PUEs for this PPS is a development consideration for the land that is within the boundary of the plan, and will not affect other property.

- (2) **The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The land within the Westphalia Row development is zoned M-X-T and has an approved CSP, PPS, and DSP for lots that are smaller than the more suburban zoning standards in residential zones. The ten feet of width normally required for PUEs would be significantly difficult to implement, while maintaining the density and number of lots permitted in previous approvals.

- (3) **The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and**

Phase I of development for Westphalia Row was previously approved and has been constructed with PUE widths and locations that are very similar to what is being proposed with this PPS.

- (4) **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if strict letter of these regulations is carried out;**

As previously stated, the land within the Westphalia Row development is zoned M-X-T and has an approved CSP, PPS, and DSP allowing lots that are smaller than the more suburban zoning standards in residential zones. The 10 feet of width normally required for PUEs would be significantly difficult to implement, while maintaining the density and number of lots permitted in previous approvals. The size of the development parcel (3.53) is therefore inhibitive to the applicant's ability adhere to this regulation.

- (5) **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones. Therefore, this finding does not apply.

The Planning Board approved this variation to Section 24-128(b)(12).

15. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24 122.02 of the Subdivision Regulations and CR-23-2003 and concluded the following:

**Impact on Affected Public School Clusters  
Attached Single Family Units**

Affected School Clusters #	Elementary School 4 Cluster	Middle School 2 Cluster	High School 2 Cluster
Dwelling Units	53	53	53
Pupil Yield Factor	0.140	0.113	0.108
Subdivision Enrollment	7	6	6
Actual Enrollment	3,383	4,599	11,684
Total Enrollment	3,390	4,605	11,690
State Rated Capacity	4,399	5,540	13,106
Percent Capacity	77%	83%	89%

*Note: At the time of this analysis, the preliminary plan of subdivision reflected 53 dwelling units. The analysis was not recalculated based on 55 units because it is provided for informational purposes only.*

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between the Capital Beltway (I-95/495) and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority (WMATA); or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,862 and \$ 15,185 to be paid at the time of issuance of each building permit.

The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

16. **Fire and Rescue**—The Special Projects Section has reviewed this application for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(C) and (E) of the Subdivision Regulations.

Section 24-122.01(e) (1) (E) states that “A statement by the Fire Chief that the response time for the first due station in the vicinity of the property proposed for subdivision is a maximum of seven minutes travel time. The Fire Chief shall submit monthly reports chronicling actual response times for call for service during the preceding month.”

The proposed project is served by Ritchie Fire/EMS Co. 37. This first due response station, located at 1415 Ritchie-Marlboro Road, is within the maximum of seven minutes travel time.

**Capital Improvement Program (CIP)**

There are no CIP projects for public safety facilities proposed in the vicinity of the subject site.

The above findings are in conformance with the 2008 Adopted and Approved Public Safety Facilities Master Plan and the "Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure."

17. **Police Facilities**—The subject property is located in Police District II, Bowie. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on April 1, 2014.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 04/01/2014	3/2014-2/2013	7 minutes	14 minutes
Cycle 1			
Cycle 2			
Cycle 3			

Based upon police response times, the response time standards of ten minutes for emergency calls were met and the 25 minutes for nonemergency calls were met on April 7, 2014.

18. **Water and Sewer Categories**—Section 24-122.01(b)(1) states that "the location of the property within the appropriate service area of the Ten-Year Water and Sewer Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewer for preliminary or final plat approval."

The 2008 Water and Sewer Plan placed this property in Water and Sewer Category 3, Community System.

19. **Health Department**—The PPS was referred to the Prince George's County Health Department for review. Comments had not been received at the time of the Planning Board hearing.
20. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

"Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748."

The PPS delineates a variable width public utility easement in accordance with a utility plan exhibit provided by the applicant, which will be reflected on the final plat prior to approval. A variation for non-standard PUEs is required, which is discussed in the Variation section of this report. This non-standard location and width of proposed PUE was previously discussed at the time of DSP review for the townhouse development south of the subject site (Phase I), which is part of the entire Westphalia Row development. Finding 11(b)—Utilities of PGCPB Resolution No. 09-44 for DSP-08039 states the following:

- b. **Utilities:** The closely-spaced arrangement of townhouses presents a challenge for utility provision as the standard ten-foot-wide utility easement, free and clear of all obstructions, has not been provided along all the private rights-of-way. The applicant has coordinated the design of utility easements with the utility companies and has prepared an exhibit showing the agreed alternative utility arrangement. The agreed utility easements shall be shown on the detailed site plan, in accordance with Condition No. 1(e).

The proposed layout of the PUE shown on the PPS and the utility plan exhibit is consistent with previous approvals for the Westphalia Row development (DSP-08039). Therefore, the location and width of the PUE proposed by this PPS is approved. The layout of the PUE should be shown on the approved DSP.

21. **Historic**—A Phase I archeological survey was completed on the Westphalia Row (4-07038) property in August 2007. Four copies of the final report, *Phase I Archaeological Survey Report: The Westphalia Row Property in Prince George's County, Maryland, Conceptual Site Plan Plan CSP-07001 (Draft Report)*, were received and approved by Historic Preservation staff on December 6, 2007. No archeological sites were identified in the survey. Due to the lack of archeological sites and the lack of significance of the buildings on the property, no further archeological work is required.
22. **Use Conversion**—This preliminary plan was analyzed based on the proposal for residential development. The analysis includes access, noise, mandatory dedication, and views of the property, specifically relating to the single-family dwelling land use proposed with this application. While the subject application is not proposing any nonresidential development, if such a land use were proposed, a new preliminary plan will be required.

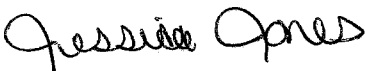
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

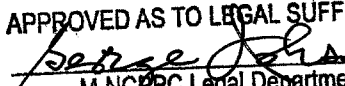
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Shoaff and Hewlett voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, July 17, 2014, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 31st day of July 2014.

Patricia Colihan Barney  
Executive Director

  
By Jessica Jones  
Planning Board Administrator

PCB:JJ:WM:arj

APPROVED AS TO LEGAL SUFFICIENCY  
  
M-NCPPC Legal Department  
Date 7/31/14