



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2021-49

File No. 4-20024

R E S O L U T I O N

WHEREAS, Westphalia Row Partners, LLC is the owner of a 1.23-acre parcel of land known as Parcel Q, Block A, 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 January 29, 2021, Westphalia Row Partners, LLC filed an application for approval of a Preliminary Plan of Subdivision for 19 lots and 4 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-20024 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 April 22, 2021, 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 April 22, 2021, 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 Type 1 Tree Conservation Plan TCP1-033-07-05, and APPROVED Preliminary Plan of Subdivision 4-20024, including a Variation from Sections 24-121(a)(4), 24-128(b)(7)(A), and 24-122(a), for 19 lots and 4 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
 - a. Label the required 10-foot-wide public utility easement along the west side of private street Weshire Drive.
 - b. Under Prior Approvals, correct reference to Conceptual Site Plan CSP-07001-06 and add CSP-07001-03.
 - c. Revise General Note 11 to provide correct stormwater management concept plan number and approval date.
 - d. Revise General Note 25 to include Site Noise Analysis by Hush Acoustics, LLC dated December 20, 2016, and Site Noise Analysis Addendum by Hush Acoustics, LLC dated March 11, 2021.

- e. Under Site Data, revise Proposed Site Area to remove reference to proposed Parcels T, U, V, and W.
 - f. Remove the proposed 20-foot landscape buffer shown adjacent to Ritchie Marlboro Road.
 - g. Under Development Standards, revise the statement “Per preliminary plan 4-07038 development standards” to reference the Conceptual Site Plan, CSP-07001-03. Correct the PGCPB Resolution No. and Condition listed in the note to provide reference to CSP-07001-03 and the relevant condition setting forth the lot standards.
 - h. Update the preliminary plan of subdivision to reflect the additional guest parking spaces as depicted in Applicant’s Exhibit 3.
2. In conformance with the 2009 *Countywide Master Plan of Transportation* and the 2007 *Approved Westphalia Sector Plan*, the applicant and the applicant’s heirs, successors, and/or assignees shall provide an exhibit that depicts the following improvements, prior to the certification of the detailed site plan:
- a. Minimum five-foot-wide sidewalks along both sides of all internal roadways, public or private, excluding alleyways.
 - b. All sidewalks to be dimensioned on plan sheets.
 - c. Parallel or perpendicular Americans with Disabilities Act accessible curb ramps throughout the site.
3. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-033-07-05). The following note shall be placed on the final plat of subdivision:
- “This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-033-07-05 or most recent revision), or as modified by the Type 2 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 and Wildlife Habitat Conservation Ordinance (WCO). 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 Planning Commission (M-NCPPC), Prince George’s County Planning Department.”
4. Prior to signature approval of the preliminary plan of subdivision, an approved stormwater management concept plan shall be submitted. The limits of disturbance shall be consistent between the stormwater concept plan and Type 1 tree conservation plans.

5. Total development within the subject property shall be limited to uses which generate no more than 13 AM peak-hour trips and 15 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision (PPS), with a new determination of the adequacy of transportation facilities. Furthermore, it is noted that this trip cap is part of the original trip cap for Westphalia Row, PPS 4-07038, and is in no way intended to represent an additional entitlement for the overall area covered by PPS 4-07038.
6. Any nonresidential development of the subject property shall require approval of a new preliminary plan of subdivision prior to issuance of any permits.
7. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan (36373-2006-05) and any subsequent revisions.
8. Prior to approval of building permits for residential buildings located on Lots 162–175, and 180 within the unmitigated 65 dBA Ldn noise contour of Ritchie Marlboro Road, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.
9. Prior to approval of a final plat:
 - a. The applicant and the applicant's heirs, successors, and/or assignees shall grant a 10-foot-wide public utility easement along the public and private rights-of-way, in accordance with the approved preliminary plan of subdivision.
 - b. The applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association for Westphalia Row has been established to include this subdivision. The existing or draft covenants, if not already established to include the information stated in this condition, shall be submitted to the Subdivision and Zoning Section to ensure that the rights of The Maryland-National Capital Park and Planning Commission are included. The Liber/folio of the declaration of covenants shall be noted on the final plat, prior to recordation. The covenants shall ensure the homeowners of Phase III equal access to the recreational facilities serving the overall Westphalia Row development approved under Conceptual Site Plan CSP-07001.
 - c. The final plat of the subdivision shall contain a note reflecting denial access to Ritchie Marlboro Road.
 - d. The final plat shall note the Prince George's County Planning Board's approval of a variation from Section 24-122(a) of the Prince George's County Subdivision Regulations, in accordance with the approving resolution for Preliminary Plan of Subdivision 4-20024, for the location of the public utility easement along Ritchie Marlboro Road.

- e. The final plat shall note the Prince George's County Planning Board's approval of a variation from Section 24-121(a)(4) of the Prince George's County Subdivision Regulations, in accordance with the approving resolution for Preliminary Plan of Subdivision 4-20024, for lots not meeting the minimum lot depth requirement.
 - f. The final plat shall note the Prince George's County Planning Board's approval of a variation from Section 24-128(b)(7)(A) of the Prince George's County Subdivision Regulations, in accordance with the approving resolution for Preliminary Plan of Subdivision 4-20024, for without frontage on a public right-of-way.
10. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association, land as identified on the approved preliminary plan of subdivision and detailed site plan. Land to be conveyed shall be subject to the following:
- a. A copy of the recorded deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division.
 - b. All waste matter of any kind shall be removed from the property, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - c. The conveyed land shall not suffer the disposition of construction materials or soil filling, other than the placement of fill material associated with permitted grading operation that are consistent with the permit and minimum soil class requirements, discarded plant materials, refuse, or similar waste matter.
 - d. Any disturbance of land to be conveyed to the association shall be in accordance with an approved site plan and tree conservation plan. 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.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to the association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by the Development Review Division.
 - f. The Prince George's County Planning Board, or its designee, shall be satisfied that there are adequate provisions to ensure retention and future maintenance of the property to be conveyed.
11. The applicant and the applicant's heirs, successors, and/or assignees shall provide adequate and developable areas for private on-site recreational facilities, in accordance with the standards outlined in the Prince George's County Parks and Recreation Facilities Guidelines. The private recreational facilities shall be reviewed by the Urban Design Section of the Development Review

Division, of the Prince George's County Planning Department, for adequacy, proper siting, and establishment of triggers for construction with the submittal of the detailed site plan.

12. The applicant and the applicant's heirs, successors, and/or assignees shall submit three original recreational facilities agreements (RFAs) to the Development Review Division (DRD) of the Prince George's County Planning Department, for construction of recreational facilities on-site for approval, prior to submission of final plats. Upon approval by DRD, the RFA shall be recorded among the Prince George's County Land Records and the Liber/folio indicated on the final plat, prior to recordation.
13. The applicant and the applicant's heirs, successors, and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for construction of the private on-site recreational facilities listed in the recreational facilities agreement which have not yet been constructed and inspected, prior to issuance of any building permits.
14. Prior to certification of the Detailed Site Plan, the applicant, or the applicant's heirs, successors, and/or assigns shall work with the Westphalia Row Homeowners Association Board of Directors to:
 - a. Determine appropriate signage to limit the 29 parking spaces, to be provided in accordance with Applicant's Exhibit 3, for guest parking only.
 - b. Explore adding an ADA compliant swing set to one of the Homeowners' Association's tot lots, to the extent practicable.

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 site is known as Parcel Q, Block A, shown on a plat for Westphalia Row recorded in Plat Book SJH 245 page 98, on October 28, 2016. The subject property is 1.23 acres in the Mixed Use-Transportation Oriented (M-X-T) Zone and is subject to the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA).

This preliminary plan of subdivision (PPS) includes 19 lots and 4 parcels for the development of single-family attached dwellings. The approved development is in accordance with the provisions of the Prince George's County Zoning Ordinance.

PPS 4-15021 was approved by the Prince George's County Planning Board on January 7, 2016, for 67 lots and 7 parcels, which included the subject property, for mixed-use development on an overall 4.51-acre property. Parcel Q was subsequently platted in accordance with PPS 4-15021.

This PPS supersedes PPS 4-15021 for the subject 1.23-acre property and approves 19 lots and 4 parcels for residential use. This PPS is required, in accordance with Section 24-107 of the Prince George's County Subdivision Regulations, for further subdivision of the property for residential use.

Several variations from the Subdivision Regulations are approved with this PPS application. The site abuts Ritchie Marlboro Road to the north, an existing arterial master planned roadway designated as A-36. Section 24-121(a)(4) of the Subdivision Regulations requires that residential lots adjacent to existing, or planned roadways of arterial classification shall be platted with a minimum depth of 150 feet. The applicant requested approval of a variation to allow 11 lots along master plan roadway A-36 to deviate from the requirement, which is discussed further.

The PPS approves townhouse Lots 162–168 and Lots 176–180, which do not front on a public street. These units are proposed with garages in the back of the units, with access provided by alleys. Section 24-128(b)(7)(A) of the Subdivision Regulations requires lots with alleys to have frontage on, and pedestrian access to a public street. The applicant requested approval of a variation to allow 12 lots in the subdivision to deviate from the requirement, which is discussed further.

The site abuts Ritchie Marlboro Road to the north, with approximately 448 feet of the property fronting this public right-of-way. In accordance with Section 24-122(a) of the Subdivision Regulations, the public utility companies require 10-foot-wide public utility easements (PUEs) to be provided along all public rights-of-way. The applicant requested approval of a variation to not provide a 10-foot-wide PUE along Ritchie Marlboro Road, which is discussed further.

3. **Setting**—The subject site is located on Tax Map 74 in Grid E4 and is within Planning Area 78. The site is located at the southwest corner of the intersection of Ritchie Marlboro Road and Sansbury Road, in Upper Marlboro. The following development abuts the subject site: townhomes in the M-X-T Zone are located to the south and west, the right-of-way of Sansbury Road to the east with a gas station in the M-X-T Zone located beyond, and the Ritchie Marlboro Road right-of-way to the north. The properties across Ritchie Marlboro Road are zoned Planned Industrial/Employment Park but are currently undeveloped, and a Residential-Townhouse zoned property is currently developed with a church.

The subject property, Parcel Q, is part of Phase III of a larger multi-phase development known as Westphalia Row. The total site area of Westphalia Row is 20.67 acres and Parcel Q is located in the northeastern corner of the development. The entire development, including the subject property, is located within the M-X-T Zone. It is noted that there are 2 acreages listed throughout this resolution for the overall Westphalia row development, 20.67 acres and 22.44 acres. The 22.44-acre area is referenced in the original conceptual site plan (CSP) and PPS 4-07038. Subsequently, right-of-way for Fernwood Road was dedicated (1.77 acres), and later applications for the site reflect 20.67 acres as the remaining site area.

The current use within the larger Westphalia Row development is residential. Most of the residential development consisting of single-family attached townhomes has been constructed,

but the commercial development, which was previously approved for the subject property, has not been completed. PPS 4-20024 replaces the previously approved commercial use for Parcel Q with residential use. The site has been previously cleared and graded, and is currently being used as a stockpile area.

4. **Development Data Summary**—The following information relates to the subject PPS application and the approved development.

	EXISTING	APPROVED
Zone	M-X-T	M-X-T
Use(s)	Vacant	Single-Family Attached
Acreage	1.23	1.23
Gross Floor Area	0	0
Parcels	1	4
Lots	0	19
Outlots	0	0
Variance	No	No
Variation	No	Yes 24-121(a)(4) 24-122(a) 24-128(b)(7)(A)

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on February 19, 2021. The requested variations from Section 24-121(a)(4), Section 24-122(a), and Section 24-128(b)(7)(A) were accepted on January 29, 2021, and also heard at the SDRC meeting on February 19, 2021, as required by Section 24-113(b) of the Subdivision Regulations.

By letter dated April 9, 2021, the applicant requested a continuance of the Planning Board hearing, which was originally scheduled for April 15, 2021. The request to continue the hearing was presented to the Prince George’s County Planning Board on April 15, 2021. The Planning Board approved the request and agreed to continue the Planning Board hearing to April 22, 2021.

5. **Previous Approvals**—This property was rezoned to M-X-T by the Westphalia Sector Plan and SMA. As part of this rezoning, the Prince George’s County District Council approved the concept plan for development of the subject property and the neighboring properties to the east and southeast as an integrated mixed-use development.

Preliminary Plans of Subdivision

The overall Westphalia Row development is subject to three separate PPS applications, of which, PPS 4-15021 is applicable to the subject property.

PPS 4-07038: The geographical boundary of this PPS (1.23-acres) is part of the prior approved PPS 4-07038 for the Westphalia Row project consisting of 22.44 acres. PPS 4-07038 was approved by the Planning Board on January 10, 2008 (PGCPB Resolution No. 08-07), for 153 lots and 6 parcels for mixed-uses including 502 dwelling units, and 56,400 square feet of commercial use. The plan provided for Phase I of the development, with future phases II and III being shown as larger parcels.

PPS 4-13026: Phase II of the Westphalia Row project was subdivided further and developed under PPS 4-13026, which consists of 3.53 acres in the northwest portion of PPS 4-07038. The PPS was approved by the Planning Board on July 17, 2014 (PGCPB Resolution No. 14-68), for 55 lots and 2 parcels for 55 dwelling units.

PPS 4-15021:

PPS 4-15021 subdivided Phase III of the Westphalia Row development, which was approved by the Planning Board on January 7, 2016 (PGCPB Resolution No. 16-03) and shows Parcel Q as one parcel approved for commercial development. PPS 4-20024 supersedes PPS 4-15021 for the subject property. The conditions of PPS 4-15021 remaining relevant to the subject property have been carried forward, or modified as needed.

Conceptual Site Plan CSP-07001 and its amendments:

CSP-07001: The site has a CSP-07001 (PGCPB No. 08-06), approved by the District Council on July 1, 2008, which was approved for a mix of residential and commercial development, to include 140–180 townhouses, 48–96 three-family dwelling units, 200–325 multifamily dwelling units, 40,000–70,000 square feet of office space, and 10,000–30,000 square feet of retail space for the Westphalia Row project on 20.67 acres. On June 18, 2012, the District Council approved Zoning Ordinance No. 7-2012 to amend Condition 9(b)(2). Therefore, relevant conditions of CSP-07001 are not included in this PPS analysis.

CSP-07001-01: On June 5, 2014, the Planning Board approved revision CSP-07001-01 (PGCPB Resolution No. 14-51), to replace the previously approved triplex units in the northwest corner of the site with townhouses, subject to 24 conditions. The conditions of CSP-07001 were thoroughly reviewed and carried forward with the -01 amendment approval, as necessary.

CSP-07001-02: On January 7, 2016, the Planning Board approved the second amendment, CSP-07001-02 (PGCPB Resolution No. 16-02), to replace the previously approved 250 multifamily units and 57,600 square feet of commercial uses with 67 fee-simple, rear-loaded townhouses and 10,000 square feet of commercial uses. Except for Conditions 1 and 2 that were fulfilled at time of the certification of CSP-07001-01, all other conditions for the -01 amendment were either carried-over or modified conditions of approval attached to CSP-07001-02. Relevant conditions of this amendment are discussed in various findings of this PPS analysis.

CSP-07001-03: This amendment was approved by the Planning Board on April 22, 2021, to replace the previously approved 10,000 square feet of commercial/retail use with 19 single-family attached dwelling units, which coincides with the development approved in this PPS.

This PPS was reviewed for conformance to the relevant conditions of CSP-07001, and its amendments, as further discussed.

Detailed Site Plan DSP-08024: On November 6, 2008, the Planning Board approved Detailed Site Plan DSP-08024 (PGCPB Resolution No. 08-168), for road infrastructure for the relocation of Fernwood Drive within the Westphalia Row project area.

Detailed Site Plan DSP-08039 and its amendments: The first phase of development, consisting of 153 townhouses on the southern portion of the site, was approved by the Planning Board as DSP-08039 on March 5, 2009 (PGCPB Resolution No. 09-44). DSP-08039-01 was approved by the Planning Board on September 10, 2009 (PGCPB Resolution No. 09-131), for the originally approved 96 triplex units. Subsequent DSP revisions '02' and '05' were approved at the Planning Director level for the addition and modification of unit types.

Subsequent to the Planning Board approving the amendment CSP-07001-01, DSP-08039-06 (PGCPB Resolution No. 14-69) was also approved by the Planning Board to reflect the same plan revision, replacing the triplex units with townhouse development. DSP-08039-08 amendment was approved by the Planning Board to reflect the amended CSP-07001-02 approval, replacing the multifamily and commercial development with townhouse units and with 10,000 square feet of commercial use on the subject property. DSP revision '09' was approved at the Planning Director level for the addition of model types.

An amendment, DSP-08039-10, to reflect the change approved in this PPS, was approved by the Planning Board on April 22, 2021.

6. Community Planning—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the Westphalia Sector Plan are evaluated as follows:

Plan 2035

Plan 2035 places the subject property in the Established Communities Growth Policy Area. Established communities are most appropriate for context-sensitive infill and low- to medium-density development. (Map 1. Prince George's County Growth Policy Map, pages 18-20).

Westphalia Sector Plan

The Westphalia Sector Plan recommends Medium Density Residential, and Activity Center uses on the subject property. The property is located at the intersection of Ritchie Marlboro Road and Sansbury Road, and is considered a Mixed-Use Activity Center (Policy 4, page 29) and is one of ten designated Gateways (Policy 7, page 32) in the Westphalia Sector Plan.

The SMA changed the zoning of the subject property from Rural Residential and Residential-Agricultural to M-X-T. The M-X-T Zone requires at least two of the following three use categories to be included on the CSP and ultimately present in every development in the M-X-T Zone:

- (1) Retail businesses.
- (2) Office, research, or industrial uses.
- (3) Dwellings, hotel, or motel.

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, this application conforms to the Westphalia Sector Plan because a single use within the Westphalia Row development is supported by Section 27-547(e) of the Prince George's County Zoning Ordinance, which states:

For property placed in the M-X-T Zone by a Sectional Map Amendment approved after October 1, 2006, and recommended for mixed-use development in the General Plan, and a Master Plan, or Sector Plan for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, a Conceptual Site Plan submitted for any property located in the M-X-T Zone may include only one (1) of the above categories, provided that it conforms to the visions, goals, policies and recommendations of the plan for that specific portion of the M-X-T Zone.

7. **Stormwater Management**—The site has a Stormwater Management (SWM) Concept Approval Letter (36373-2006-04), which will expire on December 21, 2021. However, this concept does not show the change in development as approved with this PPS. The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) is currently reviewing SWM Concept Plan 36373-2006-05, which reflects the development change.

Conformance with the provisions of the County Code and state regulations with regards to SWM will be reviewed by DPIE and reflected on an approved concept plan. The applicant must submit an approved SWM concept plan prior to signature approval of the PPS, and the limits of disturbance on the concept and Type 1 tree conservation plan (TCP1) must match.

In accordance with Section 24-130 of the Subdivision Regulations, development of the site shall conform with the SWM concept approval and any subsequent revisions, to ensure that no on-site or downstream flooding occurs.

8. **Parks and Recreation**—Per Section 24-134(a) of the Subdivision Regulations, at the time of PPS, residential development is subject to the mandatory dedication of 0.18 acre of parkland.

The subject property is 1.23 acres and will be incorporated into the surrounding 20.67-acre townhouse community, within the M-X-T Zone. The site is located on the southwest corner of Richie Marlboro Road and Sansbury Road, in Upper Marlboro, and is subject to the Westphalia Sector Plan; the 2017 *Land Preservation, Parks and Recreation Plan for Prince George's County*; and *Formula 2040, Functional Master Plan for Parks, Recreation and Open Space*. This property is currently unimproved.

This site received approval from the Planning Board for PPS 4-15021, and DSP-08039-08, on January 7, 2016 and May 12, 2016 respectively, for the development of the site, including a 10,000 square foot retail building on the subject parcel. This application approves the development of 19 townhomes to replace the retail building. The subject property was previously exempt from the mandatory parkland dedication because it was a commercial use; however, for the surrounding residential townhomes, on-site recreational facilities were provided. With the development of the 19 townhomes, the site is subject to mandatory parkland dedication.

The following Condition 7 of CSP-07001-02 addresses adequate private recreational facilities, and is relevant to this PPS:

- 7. The applicant, 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 Development Review Division for adequacy and proper siting, prior to approval of the detailed site plan by the Planning Board.**

The recreational facilities approved under PPS 4-07038, 4-13026, and 4-15021 were detailed further under DSP-08039, DSP-08039-01, DSP-08039-06, and DSP-08039-08. As conditioned by approval of PPS 4-07038, the amount and type of facilities was established by a Recreational Facilities Agreement (RFA) for Phase I of Westphalia Row which was recorded in Liber 31300 at folio 291. The RFA was subsequently amended twice with approval of 4-13026 and 4-15021, and recorded in Liber 36520 at folio 206 and Liber 38641 at folio 296, respectively.

The following on-site recreational facilities were approved with DSP-08039-08 for the overall Westphalia Row development, and included in the RFA:

- a. 2,400 square feet community building, with no fewer than three pieces of exercise equipment
- b. Sidewalks
- c. Two metal-fenced play areas
- d. Seven sitting areas with benches in various locations of the development

The facilities listed above and detailed further in the RFAs have been bonded, and some of them have been constructed at the time of this approval.

The applicant proposed that the existing private recreational facilities located on off-site Westphalia homeowners association (HOA) parcels address the mandatory parkland dedication requirement for this PPS application. The applicant provides in the General Notes on the PPS, and in a response letter received on March 12, 2021, that one sitting area is proposed directly abutting the 19 townhome lots included in this PPS in addition to these existing recreational facilities. The applicant also provides that the 19 lots included in this PPS will be annexed into

the existing Westphalia HOA for access to the existing on-site recreational facilities approved in earlier phases of the development, and all existing recreation facilities will be shared between current and future residents. A cost estimate calculation report was submitted with the application demonstrating that the value of the provided and proposed recreational facilities including a community building, a gazebo, a trellis, 39 benches, and a play structure with swings exceeds the requirement for 806 projected residents of the overall community. The applicant's response and cost estimate do not clarify which on-site recreational facilities approved under the prior phases of development are bonded, and which are constructed. The cost estimate also does not identify the items and cost for facilities approved with this PPS application. The applicant's response letter and cost estimate are included in the backup and show that the previously approved recreational facilities would exceed the value of facilities required for the total projected residents; however, modifications to the recreational facilities and cost analysis as described herein shall be further evaluated with the DSP.

Comparison with the list of required recreational facilities in the RFA reveals that the applicant proposes 7 benches, in addition to the 32 benches previously approved under Phases I, II, and III of the development, as listed in the current RFA. However, during the public hearing for CSP-07001-03 on April 22, 2021, the applicant proffered additional parking for guests and to explore adding at least one ADA-compliant swing set on the existing tot lot(s) in response to citizens' concerns. The location of the proffered parking spaces affects the sitting area abutting the subject property by reducing its square footage and total number of sitting benches. The location and details of the proffered swing set and modified sitting area will be evaluated prior to certificate approval of the detailed site plan.

The adequacy of the existing and proffered recreational facilities was evaluated in accordance with the Prince George's County Parks and Recreation Facilities Guidelines and the applicant's proposal of private on-site recreational facilities, as previously approved for the overall Westphalia Row development and with the modifications described herein, is found to meet the requirements of Section 24-134(b) of the Subdivision Regulations. The details of the modified sitting area affected by additional parking and one or more ADA-compliant swing sets located in the existing tot lots will be evaluated during the review of the DSP and the recreational facilities agreement shall be amended to account for any modified facilities. Those recreational facilities for the overall Westphalia Row development which have not yet been constructed and inspected shall be bonded prior to the approval of any building permits for the lots included in this PPS.

9. **Pedestrian and Bicycle Transportation**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the Westphalia Sector Plan, and the Subdivision Regulations to provide the appropriate pedestrian and bicycle transportation facilities.

Existing Site Conditions

Westphalia Row is currently developed with existing townhomes, a community center, and a pedestrian sidewalk network throughout the site connecting to Sansbury Road.

Previous Conditions of Approval

The proposed development is subject to the following prior approvals that include conditions related to bicycle and pedestrian transportation:

Conceptual Site Plan CSP-07001-02:

- 9. The Applicant shall provide an eight-foot-wide side path or wide sidewalk along Sansbury Road, unless modified by the Department of Public Works and Transportation (DPW&T).**
- 10. The final record plat shall include a note that the applicant, the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation (DPW&T) for the placement of appropriate signage for the Class III bikeway along Sansbury Road. The contribution shall be made prior to the issuance of first building permit.**
- 11. The applicant shall extend the sidewalk along the north side of Fernwood Drive to the stormwater management access road/pedestrian walkway on Parcel D, unless modified by the Department of Public Works and Transportation (DPW&T).**
- 12. Appropriate pedestrian amenities and pedestrian safety features will be evaluated at the time of Detailed Site Plan.**

The subject application includes all facilities and fulfills the conditions above. Additional pedestrian connections to Sansbury Road and Ritchie Marlboro Road as well as interior pedestrian facilities are conditioned with this PPS, consistent with M-X-T zoning. These facilities are shown within the submitted plans.

PPS 4-15021

- 3. In conformance with the 2009 *Approved Countywide Master Plan of Transportation*, the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:**
 - a. Provide a financial contribution of \$210 to Department of Public Works and Transportation for the placement of this signage along Sansbury Road. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit.**

Development has proceeded within Phase III and this condition has been previously satisfied. Therefore, this condition is not carried forward in this PPS.

DSP-08039

5. **Provide striped crosswalks across Roads A, B, C, and D where they intersect with Fernwood Drive, unless modified by DPW&T.**
6. **Provide a striped crosswalk across Fernwood Drive at Sansbury Road, unless modified by DPW&T.**

Striped crosswalks are provided throughout the site and fulfill the conditions above.

Adequacy of On-Site Facilities

The PPS includes the existing eight-foot-wide shared use path along Sansbury Road, and five-foot sidewalk along Weshire Drive and associated continental style crosswalks. The plans also include a five-foot sidewalk along the frontage of townhomes 162 to 168 with a connection to sidewalk along Sansbury and Ritchie Marlboro Roads.

All curb ramps shall be parallel/perpendicular and Americans with Disabilities Act accessible where applicable.

Connectivity to Adjacent/Nearby Properties

The subject site is adjacent to additional mixed used and residential areas connected via existing side paths along Ritchie Marlboro Road and Sansbury Road. The additional sidewalk connections provided will enhance the overall pedestrian system and provide convenient pathways from the subject site to the existing facilities.

Master Plan of Transportation (MPOT) Compliance

Two master plan trail facilities impact the subject site, the existing shared use paths along Ritchie Marlboro Road and along the property frontage of Sansbury Road. The MPOT provides policy guidance regarding multimodal transportation and the Complete Streets element of the MPOT recommends how to accommodate infrastructure for people walking and bicycling.

Policy 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.

Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

Policy 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

The site is currently developed with eight-foot-wide shared use paths along the property frontage of Marlboro Ritchie and Sansbury Road, which fulfill the intent of the recommended master plan facilities and the Complete Streets Policies above. The subject application provides alleyways connecting to the additional townhomes; therefore, sidewalk is not required along both sides.

This development is also subject to the sector Westphalia Sector Plan which includes the following recommendations for pedestrian and bicyclist facilities (page 47):

- 1. Sidewalks should be provided throughout the Westphalia community except designated scenic rural roads, highways, bikeways, trails, and lanes.**

The subject site is currently developed with side paths along the property frontages to accommodate multimodal users. Sidewalk and crosswalks throughout the site provide continuous pedestrian connections within the site and to adjacent areas. The provided sidewalk facilities will enhance the overall system within the Westphalia community.

Based on the preceding findings, adequate pedestrian and bicycle transportation facilities will exist to serve the subdivision, as required, in accordance with Section 24-124 of the Subdivision Regulations.

- 10. Transportation**—The subject property is located within Transportation Service Area 2, as defined in Plan 2035. The overall 20.67-acre, M-X-T zoned Westphalia Row property is located within the southwest quadrant of the Ritchie-Marlboro Road and Sansbury Road intersection, east of the Capital Beltway. The site has been the subject of multiple applications and approvals, including PPS 4-07038 on January 10, 2008. Pursuant to the provision of PGCPB Resolution No. 08-07, the PPS 4-07038 was approved with a number of transportation-related conditions including the following:

- 9. The proposed development shall be limited to a mix of uses where the net new trips shall not exceed 398 AM and 471 PM peak-hour trips. Any development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.**

The applicant provided information indicating that 275 townhome units have been built to date. The Table below provides an overview of past and future trip generation and how the trip cap is affected.

Table 1 – Traffic Analysis			
		AM Peak	PM Peak
Trip Cap - PGCPB No. 08-07	Residential + Office	398	471
<i>Total built to-date</i>	<i>275 Residential Units</i>	<i>-193</i>	<i>-220</i>
Remaining trip cap		205	251
<i>Pending CSP, DSP, PPS</i>	<i>19 Residential Units</i>	<i>-13</i>	<i>-15</i>
Remaining Trip Cap		192	236

The results from Table 1 show that the 19 residential units approved with this PPS will not exceed the existing trip cap for the overall Westphalia Row development (approved via PPS 4-07038). A separate trip cap consistent with the trip generation is assumed for this site, 13 AM and 15 PM peak-hour vehicle trips. By this finding, it is noted that this cap is part of the original trip cap for PPS 4-07038, and is in no way represents an additional entitlement for the overall area covered by PPS 4-07038.

Site Access and Circulation

The PPS shows a street/alley layout that will integrate seamlessly with the road network of the existing development. There are no issues with future circulation of the combined development.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, as required, in accordance with Section 24-124.

- 11. Private Roads and Alleys**—The subject site includes private roads and alleys in the residential portion of the M-X-T Zone. This is permissible under Section 24-128(b)(7)(A), which allows the Planning Board to approve private streets and alleys when developing attached single-family residential uses. Section 24-128(b)(7)(A) also requires that the pavement width of private streets shall not be less than 22 feet in width, and the pavement width of private alleys shall not be less than 18 feet in width, provided that the minimum width is consistent with a safe, efficient, vehicular access to individual lots. It is noted that the pavement widths of private streets and alleys shown on the TCP1 are in conformance with Section 24-128(b)(7)(A). The applicant submitted an exhibit showing turning analysis for a fire truck, which is incorporated by reference herein, demonstrating adequate clearances for maneuverability of the fire truck through the private street and alleys within the subdivision. However, the alleys are proposed to serve townhouse lots without frontage on and direct access to a public street and the applicant requested a variation as follows:

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

The applicant filed a variation request from Section 24-128(b)(7)(A) to allow the use of alleys to serve townhouse lots that front on private streets and open space instead of public streets as required.

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.

The applicant requested relief from this requirement to allow townhouse lots which are served by alleys to have frontage on private rights-of-way and open space instead of public rights-of-way. Seven lots front on public rights-of-way and twelve lots, specifically Lots 162–168 and 176–180, front on private streets and HOA open space.

Section 24-113(a) of the Subdivision Regulations 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:**

- (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 related to access that will be situated on lots that are internal to the PPS. The alley, by definition (Section 27-107.01 of the Zoning Ordinance), is intended to serve secondary vehicular traffic and is not intended to serve general circulation. In this case, lots fronting open space or private streets instead of public streets do not alter this arrangement. The alleys are designed to serve a limited number of lots and will not serve general circulation based on the lotting pattern approved with this PPS. The granting of this variation does not alter the intent of the design and use of alleys, is consistent with the surrounding townhouse development and will not be detrimental to the public safety, health, welfare, or injurious to 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 subject property is zoned M-X-T and has previously approved CSP, PPS, and DSP (for Phases I, II, and III) allowing smaller lots and higher density than what is generally permitted in residential zones. The size of the development parcel (1.23 acres) limits the implementation of public streets that serve each lot, as they are generally required to be wider than private streets. Further, the approved layout provides orientation, private roads, and alleys in a unified design with the existing surrounding townhouse lots, which are shown on the prior approved plans for Phases I, II, and III of the Westphalia Row development.

The surrounding development establishes the framework for the design of the lots approved in this application, which is unique to this development and is not generally applicable to other properties.

- (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). The approval of a variation is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. 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 and PPS for other phases allowing smaller lots and higher density than what is generally permitted in residential zones. In addition, the size of the development parcel (1.23 acres) limits the ability to implement public streets that serve each proposed lot, as they are generally required to be wider than private streets. In order to realize the permitted density, alternative layouts have been approved with prior applications and this site is an extension of that established framework. The size and location of the subject site, and the existing conditions of the surrounding development, limit the applicant's ability to adhere to this regulation. This parcel is the remaining undeveloped portion of development, and adjoining streets and alleys have been constructed. The layout is constrained by the need to provide

connectivity to adjoining residential development and present a cohesive design.

- (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.

Based on the proceeding findings, the Planning Board **approved** the variation from Section 24-128(b)(7)(A) for 12 lots, specifically Lots 162–168 and 176–180.

12. **Public Facilities**—In accordance with Section 24-122.01 of the Subdivision Regulations, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated February 8, 2021 (Thompson to Gupta), incorporated by reference herein.
13. **Schools**—This PPS was reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and Prince George's County Council Resolution CR-23-2001. The subject property is located within Cluster 4, which is located outside the Capital Beltway. An analysis was conducted, and the results of the analysis are as follows:

Impact on Affected Public School Cluster by Dwelling Units

	Affected School Cluster		
	Elementary School Cluster 4	Middle School Cluster 4	High School Cluster 4
Total Dwelling Units	19 DU	19 DU	19 DU
Single-Family Attached Townhouse	19	19	19
SF Attached Townhouse (PYF)	0.14	0.073	0.091
SF Attached Townhouse * PYF	2.166	1.387	1.729
Total Future Subdivision Enrollment [SF Attached Townhouse]	2	1	2
Adjusted Enrollment in 2019	12,927	9,220	7,782
Total Future Enrollment	12,929	9,221	7,884
State Rated Capacity	15,769	9,763	8,829
Percent Capacity	82 percent	94 percent	88 percent

Section 10-192.01 establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$9,741 per dwelling if a building is located between Interstate 495 and the District of Columbia; \$9,741 per dwelling if the building is included within a Basic Plan or CSP that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$16,698 per dwelling for all other buildings. This project is outside of the Capital Beltway; thus, the surcharge fee is \$16,698 per dwelling unit. This fee is to be paid to DPIE at the time of issuance of each building permit.

14. **Use Conversion**—The total development included in this PPS is approved for 19 single-family attached dwelling units in the M-X-T Zone. If non-residential development or a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, that revision of the mix of uses would require approval of a new PPS prior to approval of any building permits.
15. **Public Utility Easement**—Section 24-122(a) and Section 24-128(b)(12) of the Subdivision Regulations require PUEs along public and private streets. The standard requirement for PUEs is 10-foot-wide along both sides of all public rights-of-way. The subject site fronts on public rights-of-way Sansbury Road to the east and Ritchie Marlboro Road to the north. The required 10-foot PUE along Sansbury Road is delineated on the PPS and will be re-recorded with the final plat. The applicant filed a variation request from Section 24-122(a) for provision of PUEs along Ritchie Marlboro Road, and is further discussed below.

One private street (Weshire Drive) is included in this PPS. Section 24-128(b)(12) requires that a 10-foot-wide PUE be provided along at least one side of all private streets. The PPS shows the required PUE along the west side of the private street, but this 10-foot-wide PUE is not labeled. Revisions to the plans will be required to label this 10-foot-wide PUE along the private street, prior to signature approval.

Variation to Section 24-122(a)

The PPS proposes to not provide a PUE contiguous to Ritchie Marlboro Road. Section 24-122(a) states the following:

- (a) When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.**

The standard requirement of the public utility companies is to provide a 10-foot-wide PUE along all public roadways. 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:**

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

Construction of the majority of Westphalia Row development is complete, and utilities have been previously located adjacent to the subject site and throughout the development. Under previous development plans, PUEs have been located in order to serve the townhouse development and will be extended to the units proposed in this PPS application. The omission of the PUE along Ritchie Marlboro Road will have no impact on the PUEs already provided and available within the development, and to surrounding developments.

Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare or injurious to others or 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 project is located immediately east of the Capital Beltway off-ramp for Ritchie Marlboro Road. Westphalia Row is currently approved for 275 townhomes and approximately 267 have been built, sold and are now occupied. The applicant has stated that during the three-year period of construction in Phase III, there have been no requests made by utility companies for a PUE along Ritchie Marlboro Road.

A Conceptual Utility Plan submitted as an exhibit, and incorporated by reference herein, shows the location of dry and wet utilities for the Westphalia Row development and the location of Washington Suburban Sanitary Commission easements and PUEs. In the exhibit, PUEs are provided where needed, including existing 10-foot-wide PUEs along two public roads adjacent to the site, Sansbury Road (east) and Fernwood Drive (south). PUEs are provided on the PPS in front of all the townhouses proposed in this last section of Westphalia Row.

The subject property fronts on three public rights-of-way and is an extension of the existing development of Westphalia Row for which utilities have already been established; these factors are unique to the subject property and not generally applicable to other properties.

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

No other known law, ordinance, or regulation is violated if this variation is approved. The approval of a variation is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. Further, this request was referred to the affected utility companies and none have opposed the variation.

(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;

The property is located in the northeast corner of a residential development, at the intersection of Ritchie Marlboro Road and Sansbury Road. A 10-foot-wide PUE has been previously dedicated along Sansbury Road, with record plat 245-98. More than half of the site's frontage with Ritchie Marlboro Road consists of an approximately

15-foot-wide strip of land, which was established to provide a landscape buffer to the historic Ritchie Marlboro Road under PPS 4-15021. The current configuration of the property is the result of provision of this buffer. Strict adherence to this regulation will require placing the PUE within this landscape buffer and reducing the available width for buffer planting in front of 12 existing townhouses constructed under Phase III. The existing subdivision approvals which have formed the development pattern and the existing utility locations available to the subject site constitute the particular physical surroundings applicable to this property. The requirement to provide an additional 10-foot-wide PUE along Ritchie Marlboro Road would impede on the ability to provide a landscape buffer along Ritchie Marlboro Road and detract from the design of the established subdivision while serving no additional purpose since utilities have already been established, which would be a particular hardship to the owner.

- (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.

Based on the proceeding findings, the Planning Board **approved** the variation from Section 24-122(a).

16. **Historic**—Phase I archeological survey was completed on the Westphalia Row property in August 2007. Four copies of the final report, *Phase I Archeological Survey Report: The Westphalia Row Property in Prince George's County, Maryland, Plan CSP-07001 (Draft Report)*, were received on December 6, 2007. No archeological sites were identified in the survey. Four dwellings were located on the property, one built around 1935 and the other three built in the 1950s. None of these buildings were considered eligible for inclusion in the National Register of Historic Places. Due to the lack of archeological sites and the lack of significance of the buildings on the property, no further archeological work was recommended. No further archeological work is necessary on the Westphalia Row property.

The subject property does not contain and is not adjacent to any Prince George's County historic sites or resources. This proposal will not impact any historic sites, historic resources or known archeological sites.

- 17. Environmental**—This PPS application (4-20024) and a Type 1 Tree Conservation Plan (TCP1-033-07-05) were accepted on January 29, 2021, with revised plans received on March 11, 2021. The following applications have been previously reviewed for the subject site:

Development Review Case Number	Associated Tree Conservation Plan	Authority	Status	Action Date	Resolution Number
CSP-07001	TCPI-033-07	District Court	Approved	6/18/12	PGCPB No. 08-06
4-07038	TCPI-033-07	Planning Board	Approved	1/10/08	PGCPB No. 08-07
DSP-08024	TCPII-055-08	Planning Board	Approved	11/6/08	PGCPB No. 96-375
4-13026	TCP1-033-07-01	Planning Board	Approved	7/17/14	PGCPB No. 14-68
DSP-08039	TCPII-055-08-01	Planning Board	Approved	3/05/09	PGCPB No. 09-44
DSP-08039-01	TCPII-055-08-01	Planning Board	Approved	9/10/09	PGCPB No. 09-131
DSP-08039-02	TCPII-055-08-02	Planning Director	Approved	11/18/10	N/A
DSP-08039-03	TCPII-055-08-02	Planning Director	Approved	2/09/11	N/A

Proposed Activity

The current application is a PPS and revised TCP1 to change the approved commercial area to 19 townhome lots in the M-X-T Zone.

Grandfathering

The project is subject to Subtitles 24, 25, and 27 of the County Code that came into effect on September 1, 2010 and February 1, 2012, because the application is a new PPS.

Site Description

The overall Westphalia Row site is 22.44 acres in the M-X-T zone, located on the east side of the Capital Beltway and on the southwestern corner of the Ritchie Marlboro Road and Sansbury Road intersection. The subject PPS application is for 1.23 acres of the overall site. 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 on the overall property. The overall site is adjacent to the Capital Beltway, which is a source of traffic-generated noise. The soils found to occur on this overall site according to the Prince George's County Soil Survey are in the Collington-Wist complex, Downer-Hammonton complex, Marr-Dodon complex, Potabac-Issue complex and the Westphalia and Dodon soil series. According to available information, Marlboro clay does not occur on this property. 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 on or adjacent to this property.

Ritchie-Marlboro Road is a designated historic road in the vicinity of this property, which is located in the Southwest Branch watershed of the Patuxent River basin.

MASTER PLAN CONFORMANCE

Prince George's Plan 2035

The site is located within the Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map, as designated by Plan 2035, the Established Communities of the General Plan Growth Policy Map (2035), and a Mixed-Use designation of the General Plan Generalized Future Land Use (2035).

Westphalia Sector Plan

In the Westphalia Sector Plan, the Environmental Infrastructure Section contains goals, policies, and strategies. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the Westphalia Sector Plan and the plain text provides comments on the plan conformance.

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

According to the *Countywide Green Infrastructure Plan* of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*, the overall site contains regulated and evaluation areas. The regulated area is associated with a stream system adjacent to the site. The applicant has demonstrated that the regulated areas, included in the primary management area, have been preserved and/or restored to the fullest extent possible on the overall site.

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

An unapproved SWM concept plan for the area in this PPS has been submitted which shows the use of 10 micro-bioretention facilities to manage the stormwater for the development. The current project is in review as a site development concept plan with DPIE.

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

Green building techniques and energy conservation techniques should be applied as appropriate.

Countywide Green Infrastructure Plan of the 2017 Approved Prince George's County Resource Conservation Plan

The 2017 *Countywide Green Infrastructure Plan* was approved with the adoption of the *Resource Conservation Plan: A Countywide Functional Master Plan* (CR-11-2017) on March 7, 2017.

According to the *Countywide Green Infrastructure Plan* of the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*, a majority of the overall property is within the designated evaluation area. While the Green Infrastructure elements mapped on the subject site will be impacted, portions of the overall site have been graded under previous approvals and the design of the site meets the zoning requirements and the intent of the growth pattern established in Plan 2035.

Review of Previously Approved Conditions

The following text addresses previously approved environmental conditions related to the subject application. The text in **BOLD** is the actual text from the previous cases or plans. The plain text provides the comments on the plan's conformance with the conditions. No environmental conditions of the original CSP-07001 or the -01 revision apply to the current application.

Conformance with CSP-07001-02 (PGCPB Resolution No. 16-02):

- 1. Prior to certificate of approval of the conceptual site plan (CSP), a copy of the revised approved Stormwater Management Concept plan associated with approval #36373-2006-03 shall be submitted and the facilities shall be correctly reflected on the CSP and the Type 1 tree conservation plan.**

This condition was met prior to certification of CSP-07001-02.

ENVIRONMENTAL REVIEW

Natural Resource Inventory

A signed Natural Resources Inventory (NRI-114-06-04) was submitted with the application, which updated the area of focus for this PPS. The complete NRI for the site was approved under NRI-114-06-01. The overall site contains sensitive environmental features such as streams, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils. Regulated environmental features are not located within the area of focus for this PPS. No revisions are required for conformance with the NRI.

Woodland Conservation

This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the gross tract area exceeds 40,000 square feet and there are more than 10,000 square feet of existing woodland on-site. Currently, this site has an approved Type 1 Tree Conservation Plan (TCP1-033-07-03) and Type 2 Tree Conservation Plan (TCP2-55-08-04). The PPS application included a revised TCP1 (05 revision), which is subject to the current regulations because it is a part of new PPS application submission.

This overall 22.44-acre property contains a total of 8.74 acres of woodland outside the floodplain, according to the NRI. The woodland conservation threshold is 3.01 acres. The subject site has cleared 8.31 acres of the existing 8.74 acres. The cumulative woodland conservation requirement is 7.07 acres. The TCP1 meets the subject site's portion of the overall requirement with 0.35 acre of woodland preservation, 0.53 acre of reforestation/afforestation, and 6.19 acres of off-site

woodland conservation. Through other permitting activities at the subject site, the overall site has complied with bonding on-site and purchasing off-site woodland credits. No additional clearing is proposed as part of this submission.

Specimen Trees

In accordance with approved NRI-114-06-04; no specimen, champion, or historic trees have been identified on the subject property. No further information is required regarding specimen, champion, or historic trees.

Preservation of Regulated Environmental Features/Primary Management Area (PMA)

The site in the PPS does not contain regulated environmental features. No review of impacts to regulated environmental features is necessary and no conservation easements are required for this site.

Scenic and Historic Roads

Ritchie-Marlboro Road is designated as a historic road in the MPOT and has the functional classification of arterial. The MPOT includes a section on Special Roadways, which includes designated scenic and historic roads, and provides specific policies and strategies which are applicable to this roadway, including to conserve and enhance the viewsheds along designated roadways.

Any improvements within the right-of-way of an historic road are subject to approval by the County under the Design Guidelines and Standards for Scenic and Historic Roads.

The 2010 *Prince George's County Landscape Manual* (Landscape Manual) addresses the requirements regarding buffers on scenic and historic roads. These provisions will be evaluated at the time of DSP review. Adjacent to a historic road, the Landscape Manual requires a Section 4.6 landscape buffer (Buffering Development from Special Roadways) based on the development tier (now ESA 2). In ESA 2, the required buffer along a historic road is a minimum of 20 feet wide to be planted with a minimum of 80 plant units per 100 linear feet of frontage, excluding driveway openings. Landscaping is a cost-effective treatment which provides a significant visual enhancement to the appearance of a historic road.

The Special Roadway buffer must be located outside of the right-of-way and PUEs, and preferably by the retention of existing good quality woodlands, when possible.

18. Urban Design—Conformance with the Prince George's County Zoning Ordinance (Subtitle 27) is evaluated as follows:

The site is within the planning area of the Westphalia Sector Plan and SMA and the single approved townhouse use for this M-X-T zoned property is acceptable, in accordance with Section 27-547(e), as discussed in Finding 6. Townhouse requirements pursuant to Section 27-548(h) of the Zoning Ordinance were replaced by standards set by the previously approved CSP. The townhouse lots shown on PPS 4-20024 conform with the applicable development standards established for the larger Westphalia Row project.

Conformance with Previous Approvals

CSP-07001-03 was reviewed and approved prior to the approval of PPS 4-20024. This PPS is designed to work in concert with the revised CSP.

The following Condition 4 of CSP-07001-02 established development standards, and is relevant to this PPS:

- 4. 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 units 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.**

Condition 4 of CSP-07001-02 established development standards which determined the minimum lot size and width, minimum front yard setback and yard area, and maximum building height for front-loaded and rear-loaded townhouses, and other building types. This condition is modified to remove development standards for multifamily, office, and retail buildings, and is carried forward as a condition of approval in CSP-07001-03. Lot size, development density and floor area ratio proposed by PPS 4-20024 are within the ranges approved by CSP-07001-02. The lots included in this PPS exceed the minimum required lot standards. The lots range in size from 888 square feet to 1,403 square feet, with all of the lots above the minimum 800 square feet in area, and a minimum of 50 percent of the units (14 in total) are 1,000 square feet or more in area. Conformance to specific building standards will be evaluated further at the time of DSP. The PPS includes four parcels, which are to be conveyed to the HOA.

Conformance with the Prince George's County Tree Canopy Coverage Ordinance

In accordance with Section 25-128 of the Prince George's County Code, properties in the M-X-T Zone are required to provide 10 percent of the gross tract area in tree canopy coverage (TCC). The subject site is 1.23 acres and is required to provide 0.12 acre of the site in TCC. Conformance with this requirement will be evaluated at the time of DSP.

Conformance with the Requirements of the 2010 Prince George's County Landscape Manual

The site is subject to Section 4.1, Residential Requirements; Section 4.6, Buffering Development from Streets; and Section 4.9, Sustainable Landscape Requirements of the Landscape Manual. Conformance with landscaping requirements will be evaluated at the time of DSP.

- 19. Noise**—The subject site is located on the eastern side of the Capital Beltway, which is classified as a freeway, and on the south side of Ritchie Marlboro Road, which is classified as an arterial roadway. Both are considered transportation-related noise generators. In addition, prior approvals have required acoustical analysis and certification of reduction of interior noise levels for the townhouse units within Westphalia Row. The addition of new lots requires a new Phase 1 Noise Analysis at the time of PPS. No outdoor recreation areas are permitted within the area of 65+ dBA Ldn, as mitigated, and interior noise levels must be reduced to 45 dBA Ldn or less. An updated noise study was submitted by the Applicant with this PPS to analyze noise levels generated by traffic for the approved townhomes. The noise study provides a list of lots which

will require engineered building envelopes to reduce interior noise levels to 45 dBA Ldn or less. Specifically, these are Lots 162–168, 169–175, and 180, totaling 15 lots.

Condition 16 of CSP-07001-02 addresses nuisance generated by traffic on adjoining roads, and is relevant to this PPS:

- 16. At the time of building permit issuance, applications for building permits shall be prepared by a professional engineer with competency in acoustical analysis using the certification template. The certification shall state that the interior noise levels have been reduced through the proposed building materials to 45 dBA Ldn or less for the portions of the residential units within the unmitigated 65dBA Ldn or higher noise impact area.**

Condition 14 of PPS 4-15021 also addresses noise, and is relevant to this PPS:

- 14. Prior to approval of building permits for residential buildings located within the unmitigated 65 dBA Ldn noise contour of Ritchie Marlboro Road and dwellings located on Lots 106, 107, 125–133, 140 and 141, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shells of structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.**

No outdoor recreation areas are permitted or approved within the area of 65+ dBA Ldn, as mitigated, and interior noise levels must be reduced to 45 dBA Ldn or less. A noise study was submitted by the applicant with this PPS, which provides a list of lots which will require engineered building envelopes to reduce interior noise levels to 45 dBA Ldn or less.

Consistent with Condition 14 of PPS 4-15021, the incorporation of noise dampening materials in the construction of townhouse units within the 65 dBA Ldn noise contour of Ritchie Marlboro Road is appropriate. Lots 162–175, and 180 (totaling 15 lots) were identified as the residential units for which building materials and structures will be required to be engineered to mitigate for interior noise levels. A similar condition is carried forward and included as a condition of this PPS.

- 20. Variation from Section 24-121(a)(4)—**Section 24-121(a)(4) sets forth lot depth requirements for lots adjacent to noise generating roadways as follows:

- (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.

The applicant filed a variation request from Section 24-121(a)(4), for lot depth. 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 162–170, 179 and 180 are the subject of this variation, totaling 11 lots. 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:

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

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 of the Subdivision Regulations could result in practical difficulties in providing consistency with the previously approved Phase II (PPS 4-13026) and Phase III (PPS 4-15021) development pattern, which were found not to be detrimental to the public safety, health, welfare or injurious to other property. The rear activity areas are mitigated by the townhouse buildings. The building shells are conditioned with this PPS to attenuate to interior noise levels of 45 dBA Ldn or less. Ritchie Marlboro Road is a designated historic road. A Section 4.6 Landscape Manual bufferyard for the Special Roadway, between the arterial roadway and the approved development, will be required. The 4.6 buffer will assist with the protection and visual screening from traffic nuisances for the property that is within the unmitigated 65 dBA Ldn noise contour. The purpose of the lot depth requirement is to ensure adequate protection from nuisances. With the combination of landscaping, dwelling orientation, and upgraded construction materials the adverse impacts from Ritchie Marlboro Road are adequately mitigated in this case.

- (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 PPS is situated on a relatively small area of land in the M-X-T Zone, with an approved CSP. The PPS is bounded to the north by Ritchie Marlboro Road, which is designated as an arterial roadway, on the east by Sansbury Road, which is designated as a collector roadway, and Fernwood Drive to the south, a primary residential roadway. The 1.23-acre portion of Westphalia Row is the last unbuilt component of this development. The approved layout is in keeping with the remaining and abutting phases of the Westphalia Row development, which are near completion. The small size of the property, roadways abutting on three sides and completed development pattern to the west form the confined development pattern which will be extended to this site, which is unique to this property.

- (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). The approval of a variation is unique to the Subdivision Regulations and under the sole approval authority of the Planning Board. 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;**

The property has unique existing physical surroundings, including fronting on three public rights-of-way (Ritchie Marlboro Road, Sansbury Road, and Fernwood Drive) and one private street (Weshire Drive) when compared to abutting properties and being within an existing development with an established framework for the placement of dwelling and roadways. Alternative placement of the lots would be irregular from the established lotting pattern which generate a particular hardship if strict letter of these regulations is carried out.

- (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.

Based on the proceeding findings, the Planning Board **approved** the requested variation from Section 24-121(a)(4) for 11 lots, specifically Lots 162–170, 179 and 180.

21. **Westphalia Sector Plan Implementation Board**—The subject property is located within geographical boundary of the Westphalia Sector Plan and SMA, and is therefore, under the purview of the Westphalia Sector Plan Implementation Board (WSPIB), pursuant to County Council Resolutions CR-6-2009, CR-80-2009, CR-57-2010, and CR-30-2014. The PPS application was referred to WSPIB for review and comments on February 18, 2021, in accordance with CR-6-2009, which requires that the WSPIB be made a party of record to land development proposals which involve property within the Westphalia Sector before the Zoning Hearing Examiner, the Planning Board, or the District Council. At the time of approval, no referral or correspondence has been received from WSPIB.
22. **Planning Board Hearing**—During the public hearing for CSP-07001-03 on April 22, 2021, the applicant proffered additional parking totaling 29 spaces for guests and possible provision of an ADA-compliant swing set in the existing tot lots in response to citizens' concerns. As a result, the Planning Board approved additional conditions with the approval of CSP-07001-03, which were carried forward in this PPS and stated as Conditions 1.h and 14 of this resolution.

Prior to the Planning Board deadline for additional materials to be submitted for the public hearing for PPS 4-20024, the applicant submitted five exhibits which are described further below:

- In response to citizen's concerns regarding inadequate parking for visitors within the development, Applicant's Exhibit 1 was submitted to demonstrate that the development provided 236 guest parking spaces compared to the 90 required guest parking spaces.
- Applicant's Exhibit 2 demonstrated the good faith effort by a leading real estate firm to lease the previously approved retail space on Parcel Q and market analysis.
- Applicant's Exhibit 3 provided the location of additional guest parking spaces proposed with slight modification to the street layout.

- Applicant's Exhibit 4 provided an updated turning analysis which demonstrates that the modified street layout is still adequate for movement by a fire truck.
- Applicant's Exhibit 5 provided a revised preliminary plan of subdivision showing the slight modifications required to accommodate the additional parking spaces.

Letters from the Westphalia Row community, which were generally in opposition to the proposal, and a letter from the HOA Board supporting the PPS provided that the guest parking be increased with necessary signage and designation as guest parking, were also received.

The Planning Board included the testimonies and exhibits submitted during public hearing for CSP-07001-03 into the record for PPS 4-20024.

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, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 22, 2021, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 13th day of May 2021.

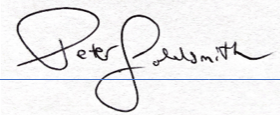
Elizabeth M. Hewlett
Chairman



By Jessica Jones
Planning Board Administrator

EMH:JJ:MG:nz

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department
Date: May 7, 2021