

R E S O L U T I O N

WHEREAS, Walton Maryland, LLC and WUSF 1 Westphalia, LLC are the owners of a 9.38-acre parcel of land, which is part of two parcels known as Parcel 229 and Parcel 231, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned Town Activity Center-Edge (TAC), and is subject to the Military Installation Overlay Zone (MIO); and

WHEREAS, on November 2, 2022, D.R. Horton Inc. filed an application for approval of a Preliminary Plan of Subdivision for 133 lots and 7 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-21008 for Westphalia Town Center Phase 5 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 January 19, 2023; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1703(b) of the Prince George's County Subdivision Regulations, subdivision applications submitted under a valid conceptual site plan approved under the prior Zoning Ordinance must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the approval of the conceptual site plan; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, on January 19, 2023, 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 TCP1-014-08-04, and further APPROVED Preliminary Plan of Subdivision 4-21008, including a Variation from Section 24-128(b)(7)(A), for 133 lots and 7 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised as follows:
 - a. Include notes on the coversheet indicating the names and addresses of the property owner(s).
 - b. Edit General Notes 6 and 11 to indicate that the property is in the Town Activity Center-Edge Zone, but that the PPS has been submitted for review under the prior Mixed Use-Transportation Oriented Zone regulations.
 - c. Correct General Note 25 to indicate Type 1 Tree Conservation Plan TCP1-014-08-04 as the associated TCP1.
 - d. Show a 22-foot pavement width for Alley 5.
2. A substantial revision to the proposed uses on-site, which affects Subtitle 24 adequacy findings, shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan 44782-2007-03, and any subsequent revisions.
4. Prior to approval, the final plat of subdivision shall include:
 - a. The granting of public utility easements along the public and private rights-of-way, in accordance with the approved preliminary plan of subdivision.
 - b. A note reflecting the granting of a variation with the preliminary plan of subdivision from Section 24-128(b)(7)(A) of the prior Prince George's County Subdivision Regulations, to allow Lots 1-24, Block O, Lots 1-24, Block P, Lots 1-19, Block Q, Lots 26-39, Block Q, and Lots 1-22, Block R to be served by alleys while fronting on private streets or open space.
5. In accordance with Section 24-135(b) of the prior Prince George's County Subdivision Regulations, the applicant and the applicant's heirs, successors, and/or assignees shall allocate appropriate and developable areas for, and provide, adequate on-site recreational facilities.
6. The final plat shall include the recording reference for the private recreational facilities agreement recorded amongst the Prince George's County Land Records in Book 48134 at page 199.
7. The private recreational facilities shall be in accordance with Detailed Site Plan DSP-19062 or any amendment thereto.

8. Prior to approval of building permits, 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 recreational facilities.
9. The applicant shall make a monetary contribution into a "park club." The total value of the payment shall be \$3,500 per dwelling unit in 2006 dollars, as recommended by the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*. The Maryland-National Capital Park and Planning Commission shall adjust the amount of the contribution using the Consumer Price Index for inflation at the time of payment. Monetary contributions shall be used for construction, operation, and maintenance of the public recreational facilities in the central park and/or the other parks that will serve the Westphalia Sector Plan area.
10. Prior to approval of the final plat, the applicant shall enter into an agreement with the Prince George's County Department of Parks and Recreation, establishing a mechanism for payment of fees into a "park club" account administered by the Maryland-National Capital Park and Planning Commission. If not previously determined, the agreement shall also establish a schedule of payments. The payment schedule shall include a formula for any needed adjustments to account for inflation. The agreement shall be recorded in the Prince George's County Land Records, by the applicant, prior to final plat approval.
11. Prior to issuance of a building permit for each dwelling unit, monetary contribution into the park club shall be payable by the applicant to the Maryland-National Capital Park and Planning Commission.
12. Total development within the subject property shall be limited to uses which generate no more than 93 AM peak-hour trips and 106 PM peak-hour 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. It is furthermore noted that this cap is encompassed within the entirety of the original trip cap for the Westphalia Center, approved under PPS 4-08002, and this PPS is not creating an additional entitlement for the overall Westphalia Center property or this site.
13. The applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
 - a. A minimum 5-foot-wide sidewalk along both sides of internal streets.
 - b. Americans with Disabilities Act-accessible curb ramps and associated crosswalks at all intersections and throughout the site at pedestrian crossings.
 - c. Shared roadway pavement markings and signage along MC-632 (Woodyard Road), consistent with the American Association of State Highway and Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities, unless modified by the operating agency, with written correspondence.

- d. A continuous network of on-site bicycle facilities, in accordance with Prince George's County design standards or any nationally recognized design standards.
 - e. Short-term bicycle parking at all recreation areas, consistent with the American Association of State Highway and Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities.
 - f. Side paths along MC-632 (Woodyard Road).
 - g. A 22-foot pavement width for Alley 5.
14. Prior to signature approval of the preliminary plan of subdivision (PPS), the Type 1 tree conservation plan shall be revised as follows:
- a. On all sheets of the plan, the approval block shall not be indicated as a revision (in red). The approval block is required on all plans needing signature approval.
 - b. On all sheets, the approval block shall be revised to include all required information regarding prior approvals, reviewer, date, status, associated cases, and reason for revisions.
 - c. On applicable sheets, remove the stamped reference to Conceptual Site Plan CSP-07004-01 in the title block.
 - d. On Sheet 5-1:
 - (1) Label the area of PPS 4-21008.
 - (2) Label the site statistics table as "Site Statistics for PPS 4-21008."
 - e. On Sheet 5-2:
 - (1) Label the limits of PPS 4-21008 on the plan sheet.
 - (2) Revise the woodland conservation summary table to indicate that "WCA" is an abbreviation for woodland clearing and provide a total acreage of woodland clearing within the boundaries of PPS 4-21008.
 - g. Have the plans signed and dated by the qualified professional who prepared them.
15. Development of this subdivision shall be in conformance with an approved Type 1 tree conservation plan (TCP1-014-08-04). 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 (TCP1-014-08-04 [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. 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, Prince George’s County Planning Department.”

16. Prior to issuance of permits for this subdivision, a revised Type 2 tree conservation plan shall be approved, which shows the revised subdivision layout.
17. Prior to approval of a building permit for any residential building identified on the detailed site plan as being within the Noise Intensity Zone of the Military Installation Overlay Zone, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permit, stating that the building shell or structure has been designed to reduce interior noise levels to 45 dBA Ldn or less.
18. The following note shall be placed on the final plat:

“Properties within this subdivision have been identified as possibly having noise levels that exceed 70 dBA Ldn due to military aircraft overflights. This level of noise is above the Maryland-designated acceptable noise level for residential uses.”
19. The property is subject to the Declaration of Covenants for the Westphalia Town Center Residential Community recorded in Prince George’s County Land Records in Liber 36342 folio 372, and as supplemented by the Supplement to the Charter for the Westphalia Town Center Residential Community recorded in Book 47686 at page 318, which shall be noted on the final plat, prior to recordation. At the time of purchase contract with homebuyers, the contract purchaser shall sign an acknowledgement of receipt of a copy of the declaration.
20. Prior to approval of building permits, the applicant and the applicant’s heirs, successors, and/or assignees shall convey land to the homeowners association, as identified on the approved preliminary plan of subdivision. 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 of the Prince George’s County Planning Department.
 - 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 operations 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 of the Prince George's County Planning Department.
 - 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.
21. Prior to issuance of grading permits, the applicant shall demonstrate that within the limits of the grading permit, any abandoned well or septic system has been pumped, backfilled and/or sealed, in accordance with the Code of Maryland 26.04.04, by a licensed well driller or witnessed by a representative of the Prince George's County Health Department.

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 site is located on the west side of MC-632 (Woodyard Road), approximately 180 feet south of MC-637 (Dower House Road) and is part of two acreage parcels known as Parcel 229 and Parcel 231. The master plan rights-of-way for MC-632 and MC-637 are being dedicated and developed as part of the larger Westphalia Center (Preliminary Plan of Subdivision (PPS) 4-08002) and Parkside (PPS 4-05080 and 4-16001, immediately north of this site) projects. The subject parcels are recorded in the Prince George's County Land Records in Liber 33367 folio 293 and Liber 45146 folio 142, respectively. The area subject to this PPS consists of 9.38 acres within the northern part of the overall Westphalia Center, and it is split into two parts by Water Rock Way, a previously approved private street. The property is within the edge area of the Town Activity Center-Edge (TAC) Zone, and is subject to the Military Installation Overlay (MIO) Zone for height and noise. However, the property is subject to a prior conceptual site plan (CSP). Therefore, this PPS was reviewed, in accordance with the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, as required by Section 24-1703(b) of the Subdivision Regulations. Under the prior Zoning Ordinance, the site

was within the Mixed Use-Transportation Oriented (M-X-T) and the Military Installation Overlay (M-I-O) Zones, which were effective prior to April 1, 2022. The 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (sector plan) is applicable to this development. The site is currently vacant and wooded.

This PPS allows subdivision of the property into 133 lots and 7 parcels for development of 133 single-family attached (townhouse) dwelling units. The parcels will be retained by the homeowners association (HOA). The PPS was submitted for the purpose of converting 133 townhouse dwelling units, previously approved under Detailed Site Plan DSP-19062 (known as Westphalia Town Center North), from condominium to fee-simple ownership. There are no changes to the layout of units, private streets, or open spaces between DSP-19062 and this PPS, however, this PPS will allow creation of individual lots for the units. DSP-19062 also sets the boundaries of the subject PPS, which covers Blocks O, P, Q, and R, as shown on the DSP.

The property is subject to CSP-07004-01 and PPS 4-08002, which were previously approved, and associated with the larger Westphalia Center development. In addition to DSP-19062, the property is also subject to several prior DSPs associated with the larger development, including DSP-12017 (an infrastructure DSP), DSP-13001 (an umbrella architecture DSP), and DSP-12043 (a special purpose DSP), as well as their amendments. These prior plans are discussed further in the Previous Approvals finding of this resolution. The subject PPS supersedes PPS 4-08002 for the 9.38 acres covered only. The findings and conditions of 4-08002 which are still relevant to the review and approval of the subject PPS are carried forward in this resolution. The subject PPS is required because the additional lots will exceed the maximum number of lots approved under 4-08002; however, note that this PPS does not include approval of any additional single-family attached dwelling units, and the total number of attached units remains within the maximum established under 4-08002.

The applicant filed a request for a variation from Section 24-128(b)(7)(A) of the prior Subdivision Regulations, to allow the use of alleys to serve lots within the development where the lots front on private streets or open space rather than a public right-of-way. This request is discussed further in the Site Access and Layout finding of this resolution.

3. **Setting**—The subject site is located on Tax Map 90 in Grids F-3 and F-4 and is within Planning Area 78. Northwest, north, and northeast of the site are Sections 5 and 6 of the Parkside development, which previously received approval under PPS 4-05080 and 4-16001, and are currently under construction. This area of Parkside is in the TAC-E and Legacy Comprehensive Design Zones but was previously in the Residential Medium Development Zone.

East and south of the site are areas of the Westphalia Town Center North section which received approval under DSP-19062, along with the subject site. These areas are currently wooded, but are proposed to be developed with single-family attached and detached dwelling units. Further to the south and southeast are other sections of the Westphalia Town Center development known as Westphalia Town Center Phase 1 (DSP-13006, as amended) and Westphalia East (DSP-19009, as amended). The final dwellings within Phase 1 were completed in 2022, while Westphalia East is

currently under construction. These areas of the Westphalia Town Center are, like the subject property, in the TAC-E Zone and formerly in the M-X-T Zone.

West of the site is the Moore Property, which is part of the Westphalia Center as shown on CSP-07004-01, but is subject to a different PPS (4-08018) from the rest of the development. The Moore Property is currently wooded, but is proposed to be developed with a mix of single-family attached, single-family detached, and multifamily dwellings. This property is also in the TAC-E Zone (formerly in the M-X-T Zone).

The entirety of the site is within the MIO Zone for height (specifically the Conical Surface (20:1) – Right Runway Area E) and noise (specifically the 60 db–74 db Noise Intensity Zone). The boundaries of the MIO Zone, including its sub-zones, are identical to those of the M-I-O Zone, which was in effect prior to April 1, 2022. This PPS was evaluated according to the standards of the prior M-I-O Zone.

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

	EXISTING	APPROVED
Zones	TAC-E/MIO	TAC-E/MIO (reviewed per prior M-X-T and M-I-O standards)
Use(s)	Vacant	Single-family attached
Acreage	9.38	9.38
Parcels	2	7
Lots	0	133
Dwelling Units	0	133
Commercial GFA	0	0
Variance	No	No
Variation	Yes (Sections 24-130 and 24-128(b)(7)(A))	Yes (Section 24-128(b)(7)(A))

Pursuant to Section 24-119(d)(2) of the prior Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on November 28, 2022. The requested variation from Section 24-128(b)(7)(A) was accepted on November 7, 2022, along with the PPS, and also heard at the SDRC meeting on November 28, 2022, as required by Section 24-113(b) of the prior Subdivision Regulations.

5. **Previous Approvals**—In 2007, the sector plan rezoned the subject property from the Light Industrial, Planned Industrial/Employment Park, and Residential-Agricultural Zones to the M-X-T Zone. The property is subject to the following prior approvals:

Conceptual Site Plans CSP-07004 and CSP-07004-01

The Prince George's County District Council approved CSP-07004, with conditions, on May 19, 2009, then issued a first revised Order of Approval on June 8, 2009, and a second revised Order of Approval on September 21, 2009. CSP-07004 was approved for a mixed-use town center consisting of up to 5,000 dwelling units, 800,000 to 1,400,000 square feet of retail space, and 4,000,000 to 4,500,000 square feet of office space, as well as up to 600 hotel rooms. The total area of the CSP is 530.27 acres; this includes the area of two follow-up PPS applications, including PPS 4-08018 (The Moore Property, 47.7 acres) and 4-08002 (the balance of the Westphalia Center, 482.57 acres).

The District Council approved CSP-07004-01, with conditions, on February 24, 2014. The 41 conditions of CSP-07004-01 fully replace and modify the conditions of CSP-07004. Many of the conditions of the CSP which were required to be met at the time of PPS, were fully met at the time of PPS 4-08002 and/or are not applicable to the specific site of the subject PPS. Of the 41 conditions of approval of CSP-07004-01, the following are relevant to the review of this PPS:

- 8. The stormwater management ponds shown on the TCP I with the preliminary plan and all subsequent plans shall be designed as amenities to the community to the fullest extent possible with features such as utilization of the natural contours of the site, providing extensive landscaping, providing walking trails where appropriate, and shall include the use of low-impact development stormwater management techniques to the fullest extent possible, such as the use of forebays to trap sediment, bioretention, french drains, depressed parking lot islands, native plants.**

Stormwater management (SWM) is being proposed as part of the site and low impact techniques are being utilized. A landscape plan was not provided as part of this PPS. However, 5-foot-wide sidewalks are shown through and around Snapping Turtle Park, a proposed private open space located on Parcel AF, Block Q within the PPS. At the time of DSP, the proposed landscaping and amenities will be reviewed further to demonstrate conformance with this condition. SWM is further discussed in the Stormwater Management section of this resolution.

- 11. At least 35 days prior to Planning Board approval of the preliminary plan of subdivision, a Phase I noise study that addresses noise related to Andrews Air Force Base, MD 4, and A-52 and A-66 shall be submitted. The TCPI for the preliminary plan shall show the resulting noise contours at both ground level and upper-story elevations. The plan shall also illustrate conceptually how noise levels will be reduced to 65 dBA Ldn for outdoor activity areas and 45 dBA Ldn for indoor living areas.**

A noise study was provided as part of PPS 4-08002, in satisfaction of this condition. The subject site is too distant from MD 4 (Pennsylvania Avenue), A-52, and A-66 to be affected by noise from those roadways, and so it will only be affected by noise generated by Andrews Air Force Base. Typically, when the base is the only source of noise affecting a site, a noise study is not required, as it is not possible to mitigate noise in

outdoor activity areas generated by overhead aircraft. However, the site is required to meet the noise regulations given in Section 27-548.55 of the prior Zoning Ordinance, which includes the requirement that the interiors of all new residential construction be certified to 45 dBA Ldn or less. The dwellings were previously required to conform to this requirement via Condition 36 of 4-08002, and a similar condition is included with this PPS. A noise study for this PPS is not required given the mitigation requirement codified in the Zoning Ordinance which will be applied to this site.

- 14. At time of preliminary plan review, a detailed transportation phasing plan shall be submitted to identify specific improvements for specified levels of development in each phase.**

At the time of PPS 4-08002, a transportation phasing plan was submitted and determined that any development, regardless of phasing, that generates trips greater than 1,610 AM and 1,719 PM peak-hour trips, will trigger the need for off-site improvements. According to the traffic phasing analysis done with DSP-19062, total development between DSP-13006, DSP-19009, and DSP-19062 reaches 1,154 AM and 1,324 PM peak-hour trips. Therefore, off-site road improvements are not yet needed. There is no need to update the transportation phasing plan with this PPS because no new development is approved over what was previously approved.

- 31. The phasing of residential and commercial uses shall be determined with approval of the conceptual site plan covering the whole property. All properties within Westphalia Center shall be subject to this CSP and the relevant special-purpose DSP.**

The Planning Board, in subdivision review for any proposed residential construction on the subject property, shall include all relevant issues, including without limitation, public facilities adequacy and master plan conformance, as they concern the entire Westphalia Center property and project, not just the issues arising at the site for that subdivision.

The following phasing regulations will apply to this project. For the purposes of this condition, “constructed” shall be construed to mean that the buildings are built and ready for occupancy except for tenant-specific fit-out improvements.

- a. The minimum development amounts on the site shall be 150 single-family detached houses, 1,650 attached dwelling units, 1,800 multifamily dwelling units, 500 hotel rooms, 900,000 square feet of retail, and 2,200,000 square feet of office. As development proceeds, adequate traffic capacity shall be reserved to allow the development of these minimum amounts. Development may proceed beyond these minimums provided adequate transportation capacity will exist for that development.**

- b. Attached dwelling units shall be limited to 50 percent of the total dwelling units on the Westphalia Center site as a whole, including the Moore Property. Regardless of the relative quantities of different unit types approved on detailed site plans, building permits shall not be issued which would result in the attached units cumulatively exceeding 50 percent of the total of all dwelling units for which permits have been issued for the Moore Property and the balance of the Westphalia Center property. Up to 100 percent of the building permits for attached dwelling units may be issued for development on the Moore property if it is in compliance with all other requirements.**
- c. Prior to issuance of permits for the 1,400th dwelling unit on the balance of the Westphalia Center property, excluding the Moore Property, 300,000 square feet of retail space and 500,000 square feet of office space shall be constructed in the Core area. Permits for development on the Moore Property may be issued prior to any commercial development in the central Core Area.**

Because no new dwellings are included with this PPS and no revisions to the site layout are included from what was approved with DSP-19062, approval of this PPS will not affect public facility adequacy or master plan conformance for the overall Westphalia Center property. The construction of the 133 previously approved dwellings will add to the requirements of Subcondition (a) above. The number of attached dwellings stands at 35 percent with the approval of DSP-19062, as noted in PGCPB Resolution No. 2021-10, which complies with Subcondition (b) above. The existing DSP-13006, DSP-19009, and DSP-19062 result in a combined 1,642 dwelling units, which exceeds the 1,400-unit trigger of Subcondition (c), and so the required commercial square footage will have to be constructed before the full buildout of the total residential units.

- 34. Total development within the subject property shall be limited to uses which generate no more than 7,149 AM peak-hour trips, and 8,910 PM peak-hour trips, in consideration of the approved trip rates and methodologies for computing pass-by and internal trip capture rates. Any development generating an impact greater than that identified herein-above shall require a revision to the conceptual site plan with a new determination of the adequacy of transportation facilities.**

This trip cap is for the overall Westphalia Center, and so is greater than the trip cap established with PPS 4-08002. As discussed in the Transportation finding of this resolution, and notwithstanding that a new trip cap for the subject property is established with this PPS, the development is within the trip cap of 4-08002. It is also within the trip cap of CSP-07004-01.

- 35. The developer shall pay a fee-in-lieu to satisfy woodland conservation requirements in accordance with CB-29-2008.**

This condition was reviewed as part of PPS 4-08002, resulting in Condition 37 of PGCPB Resolution No. 09-93 for that PPS. The condition describes a process and priorities for how the woodland conservation requirement should be met.

State legislative changes to the use of fee-in-lieu enacted on October 1, 2019, limited the use of fee-in-lieu to fulfill woodland conservation requirements, and additional fee-in-lieu for projects was not permitted after the effective date. This supersedes the County's legislation. Additional requirements have been satisfied using off-site woodland conservation.

39. All private recreational facilities located in Westphalia Center shall be made available to all residents living within its boundaries.

The subject property has been incorporated into the existing Westphalia HOA, which will allow the residents access to all the private recreational facilities under the HOA's jurisdiction.

Preliminary Plan of Subdivision 4-08002

The site was subject to a previous PPS, 4-08002 (PGCPB Resolution No. 09-93), approved on June 4, 2009. That PPS covers 482.57 acres and approved 1,352 lots and 211 parcels for development of 172 single-family detached dwelling units, 1,711 attached dwelling units (including townhouses and other attached unit types such as two over twos and triplexes), 2,473 multifamily dwelling units, 1,400,000 square feet of commercial retail, and 4,500,000 square feet of commercial office. The subject PPS supersedes 4-08002 for the 9.38 acres covered only. PPS 4-08002 was approved subject to 54 conditions. Previous conditions of approval from 4-08002, which are still outstanding and pertinent to the subject site, are carried forward to the subject PPS with appropriate modifications.

The following conditions of 4-08002 merit additional discussion not covered elsewhere in this resolution:

8. Any abandoned well or septic system shall be pumped, backfilled, and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department prior to final plat approval.

The Prince George's County Health Department reviewed PPS 4-08002 and gave comments resulting in the above condition. Though the Health Department did not comment on the subject PPS, abandoned wells or septic systems may still exist on the property and would still be of concern. Therefore, this condition is carried forward (in modified form) as condition of approval of the subject PPS.

31. Prior to final plat approval, the declaration of covenants for the property, in conjunction with the formation of a homeowners association, shall include language notifying all future contract purchasers of the proximity of the property to Andrew's Air Force Base and noise levels related to military aircraft overflights.

The property is approximately 3,000 feet from the north end of the runway. The declaration of covenants shall include the disclosure notice. At the time of purchase contract with homebuyers, the contract purchaser shall sign an acknowledgement of receipt of a copy of the declaration. The liber and folio of the recorded declaration of covenants shall be noted on the final plat along with a description of the proximity of the development to Andrew's Air Force Base and noise levels related to military aircraft overflights.

Since a HOA has already been formed, the HOA's declaration of covenants already includes language notifying future contract purchasers of the proximity of the property to the air force base. However, the requirement that the liber and folio of the recorded declaration be noted on the final plat, along with a description of the proximity of the development to the base and noise levels related to overflights, and the requirement that the contract purchaser shall sign an acknowledgement of receipt of a copy of the declaration are carried forward as conditions of this PPS.

Detailed Site Plans

The property is subject to several prior DSPs associated with the overall Westphalia Center, including DSP-12017 (an infrastructure DSP, approved by the Prince George's County Planning Board on October 18, 2012), DSP-12043 (a special purpose DSP, approved by the Planning Board on May 2, 2013), and DSP-13001 (an umbrella architecture DSP, approved by the Planning Board on September 26, 2013), as well as their amendments. In addition, DSP-19062, approved by the District Council on April 20, 2021, was approved with the site layout shown on the current PPS, except for the lot and parcel boundaries shown on the subject PPS. DSP-19062 has been subject to one amendment to add additional architectural models. There are no conditions of any of the above-listed DSPs or their amendments, which must be met at the time of this PPS.

6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035), and conformance with the sector plan, is evaluated as follows:

Plan 2035

This PPS is located in the Established Communities Growth Area per Plan 2035. Established Communities are envisioned to be most appropriate for context-sensitive infill and low- to medium-density development (pages 18 and 20).

In addition, the subject property is located in the Westphalia Town Center. Per Plan 2035, town centers can be designed as a range of auto-accessible centers that anchor larger areas of suburban subdivisions. These centers are less dense and intense than other center types and may be larger than a half mile in size due to their auto orientation. These centers typically have a walkable “core” or town center. Often, the mix of uses is horizontal across the centers rather than vertical within individual buildings. These centers have received significant public and private investment for infrastructure improvements and are envisioned to develop, per the guidelines of Plan 2035, to help fulfill Countywide goals (page 108).

Sector Plan

The sector plan recommends mixed-use, town center edge land use on the subject property (page 20).

In addition, the sector plan makes the following recommendations that affect the subject property: Develop properties in the Town Center Edge tier in a medium- to high-density urban pattern surrounding the high-density town center core, including medium-density mixed-use commercial and office, and several interconnected residential neighborhoods that have diverse housing styles and a network of open space (pages 20 and 24). The development will be within such a residential neighborhood. Pursuant to Section 24-121(a)(5) of the prior Subdivision Regulations, this PPS conforms to the land use recommendations of the sector plan.

Sectional Map Amendment/Zoning

The 2007 *Approved Westphalia Sectional Map Amendment* associated with the sector plan reclassified the subject property into the M-X-T Zone.

On November 29, 2021, the District Council approved Prince George's County Council Resolution CR-136-2021, the Countywide Sectional Map Amendment, which reclassified the subject property from the M-X-T to the TAC-E Zone, effective April 1, 2022. However, this project is reviewed in accordance with the prior M-X-T zoning, given the associated CSP, which remains valid and allows development to proceed per the prior Zoning Ordinance and Subdivision Regulations.

Aviation/Military Installation Overlay Zone

This PPS is located within the MIO Zone for both noise and height. Development of the subject property shall take place according to the specifications found in Section 27-548.53, Applicability; Section 27-548.54, Requirements for Height; and Section 27-548.55, Requirements for Noise, in the prior Zoning Ordinance.

7. **Stormwater Management**—An application for a major subdivision must include an approved SWM concept plan, or indication that an application for such approval has been filed with the appropriate agency or the municipality having approval authority. A revised SWM concept approval letter (44782–2007-03) was issued by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) on June 28, 2020 and was submitted with the subject PPS. This approval covers the overall Westphalia Center property subject to CSP-07004-01 (530.27 acres) and expires on June 28, 2023. SWM for the entire site shall be provided with on-site SWM ponds, underground storage, a regional lake, stream restoration, or a combination of the above. On-site pre-treatment is required for all options. In keeping with Condition 8 of the CSP, the SWM ponds must be designed as amenities to the community, to the fullest extent possible.

Development of the site, in conformance with the SWM concept approval and any subsequent revisions, to ensure that no on-site or downstream flooding occurs, satisfies the requirements of Section 24-130 of the prior Subdivision Regulations.

8. **Parks and Recreation**—This PPS has been reviewed for conformance with the requirements and recommendations of the sector plan, the 2017 *Land Preservation, Parks and Recreation Plan for Prince George's County*, the 2013 *Formula 2040: Functional Master Plan for Parks, Recreation and Open Space*, and the Subdivision Regulations (Subtitle 24), as they pertain to public parks and recreation and facilities.

The subject property is within two miles of the Westphalia Community Center Park, developed with a full basketball court, horseshoe pit, picnic area, picnic shelter, open playfield, and an outdoor tennis court, and south of the Westphalia Central Park, a premier park facility currently being developed. Once completed, the park will provide playgrounds, a network of trails, tennis and basketball courts, informal fields and lawn areas, a recreational pond, a seasonal ice rink, and several other amenities for public enjoyment.

The sector plan provides goals and policies related to parks and recreation (pages 50–56). Specifically, the sector plan introduced the concept of a “Central Park,” a single major recreational complex serving the entire Westphalia area. The Westphalia Central Park is 257 acres of open space. This central park will be accessible to the residents of this community through a system of roads and hiker/biker trails. This large urban park will serve as a unifying community destination and an amenity for the entire sector plan area. The development aligns with the sector plan intention to provide parks and recreation facilities designed to support existing development patterns and future residents.

Per the sector plan recommendations, the applicant shall make a monetary contribution into a “park club.” The total value of the payment shall be \$3,500 per dwelling unit in 2006 dollars. The Maryland-National Capital Park and Planning Commission (M-NCPPC) shall adjust the amount of the contribution using the Consumer Price Index for inflation at the time of payment. Monetary contributions shall be used for construction, operation, and maintenance of the public recreational facilities in the central park and/or the other parks that will serve the sector plan area.

This PPS was reviewed in accordance with the provisions of the Sections 24-134 and 24-135 of the prior Subdivision Regulations, which relate to mandatory dedication of parkland. These sections provide for the dedication of land, the payment of a fee-in-lieu, or on-site recreational facilities. Based on the density of development, 15 percent of the net residential lot area could be required to be dedicated to M-NCPPC for public parks, which equates to 1.41 acres. However, given the presence of other M-NCPPC parks in the area, including Westphalia Central Park, and given the small amount of land which could be required to be dedicated, dedication of land is not appropriate for this subdivision.

The applicant has instead opted to provide private recreational facilities and has designated areas both within the boundaries of this subdivision and within the larger Westphalia Town Center North section of the development, to serve the recreational needs of the community. The plans provided show open space areas which will be accessible to the subdivision residents, with sidewalk connections to these features. The applicant’s proposal to meet mandatory dedication of parkland with private recreation facilities is acceptable, as it will provide immediately accessible facilities in the neighborhood which will complement M-NCPPC facilities in the area. While the

specific recreation facilities currently shown were reviewed and approved with DSP-19062, any changes proposed to the recreation facilities shall be evaluated with future DSPs.

Future residents will be best served by the provision of private recreation facilities, and that the facilities to be provided will meet the requirements of mandatory parkland dedication. The PPS is in conformance with the applicable master plans, sector plan, and the requirements of Subtitle 24, as they pertain to parks and recreation facilities.

9. **Transportation**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), the sector plan, and the Subdivision Regulations to provide the appropriate transportation recommendations.

Prior Conditions of Approval

The subject site is governed by previously approved PPS 4-08002, as well as DSP-19062. The subject PPS will supersede the previously approved PPS for the limits of the subject property and will require a new limited DSP application. However, the traffic analysis considered in 4-08002 is applicable to the subject PPS and further discussed below.

Pursuant to PGCPB Resolution No. 09-93, this PPS represents a portion of a property which was the subject of a PPS that was approved on June 4, 2009. PPS 4-08002 was approved with multiple conditions, including the following (**bold**) pertaining to transportation:

42. **Total development within the subject property shall be limited to uses which generate no more than 6,816 AM peak-hour trips, and 8,526 PM peak-hour trips, in consideration of the approved trip rates and the approved methodologies for computing pass-by and internal trip capture rates. Any development generating an 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.**
43. **A traffic phasing analysis will be submitted and reviewed during the processing of the detailed site plan for each phase. This traffic phasing analysis will define the improvements required for Phase 1A, 1B, 1C, 2A, 2B, 2C, 2D, 3A, 3B, and Phase 5. These above-mentioned traffic conditions will be modified to adjust the timing trigger and extent of these improvements for each phase. This phasing analysis will not exceed the 6,186 AM peak-hour trips, and 8,526 PM peak-hour trip cap, unless a new preliminary plan of subdivision is processed.**
47. **Prior to the issuance of any building permits within the subject property for uses generating peak-hour trips in excess of 1,610 AM and 1,719 PM, the applicant and the applicant's heirs, successors and/or assignees shall pay a pro rata share of the road improvements at the intersection of MD 223 at Rosaryville Road. The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$1,126.23 per average peak-hour trip x (Engineering News**

Record Highway Construction Cost Index at the time of building permit application) / (Engineering News Record Highway Construction Cost Index for the second quarter 2008).

- 48. Prior to the issuance of any building permits within the subject property for uses generating peak-hour trips in excess of 1,610 AM and 1,719 PM, 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:**

Conditions 42, 43, 47 and 48 all made references to two trip caps; an overall trip cap of 6,186 AM peak-hour trips and 8,526 PM peak-hour trips, and a secondary trip cap of 1,610 AM and 1,719 PM peak trips. The larger cap represents the maximum amount of development allowed without the need for a new test of transportation adequacy. The secondary cap represents the maximum level of development allowed without the need for any off-site road improvements. Pursuant to Condition 43, a traffic phasing analysis was provided (Table 1), that documents the level of development to-date.

Table 1 – Traffic Phasing Analysis			
		AM Peak	PM Peak
Approved DSP-13006 (Phase 1)	346 Townhouse units	242	277
Approved DSP-19009 (Phase 1A)	75 Single family units	56	68
	580 Townhouse units	406	464
DSP-19062 (Phase 4)	34 Single family units	26	31
	605 Townhouse units	424	484
Total development to date		1,154	1,324
Grandfathered trips (Condition 48 – PGCPB Resolution No. 09-93)		1,610	1,719
Grandfathered trips remaining		456	395
133 townhouse units (part of DSP-19062)		93	106
New Trip Cap for Pending 4-21008		93	106

The results from Table 1 show that the total development of Phase 1, Phase 1A and the subject PPS will total 1,154 AM and 1,324 PM peak trips and will fall within the trip caps referenced in Conditions 42, 47 and 48. The subject PPS includes conversion of 133 of the approved 605 townhomes from condominium ownership into fee-simple lots. The trip generation for these units will remain at 93 AM and 106 PM peak-hour trips and constitute the trip cap for the subject PPS.

Master Plan Conformance

The subject property is governed by the sector plan, as well as the MPOT. This development will be served by several roads including MC-632, a planned major collector within a 98-foot right-of-way. No additional right-of-way will be required for this development.

Master Plan Pedestrian and Bike Facilities

The MPOT includes the following goal and policies regarding sidewalk and bikeway construction and the accommodation of pedestrians and bicyclists (pages 7 and 8):

GOAL: Provide a continuous network of sidewalks, bikeways and trails that provide opportunities for residents to make some trips by walking or bicycling, particularly to mass transit, schools, employment centers, and other activity centers.

POLICY 2: Provide adequate pedestrian and bicycle linkages to schools, parks, recreation areas and employment centers.

POLICY 3: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities*.

POLICY 4: Identify sidewalk retrofit opportunities for small area plans within the Developed and Developing Tiers to provide safe routes to school, pedestrian access to mass transit and more walkable communities.

POLICY 5: Plan new development to help achieve the goals of this master plan.

In addition, the sector plan includes the following recommendation for pedestrian and bicyclist facilities:

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

The MPOT recommended pedestrian and bicycle facilities will be further evaluated with future site plan applications. However, the latest submission of the PPS shows that all internal roadways and master plan rights-of-way provide sufficient space to accommodate the MPOT recommended facilities. As a condition of approval, the subject site shall be served by a continuous network of internal pedestrians and bicycle facilities. Any changes from the facilities previously approved under DSP-19062 will be evaluated with future site plan applications.

Site Access and Circulation

The subject property does not front on any existing road. However, MC 632, as well as the internal streets, are designed in a grid pattern, which will enhance the internal circulation of the property. Upon completion and connection to adjacent dead-end streets, the street network will be adequate to serve this development.

Analysis of Bicycle and Pedestrian Impacts

This development is not located within any established corridor, and therefore, is not subject to Section 24-124.01 of the prior Subdivision Regulations and the “Transportation Review Guidelines – 2022 Supplement.”

Traffic Evaluation

The development is projected to generate 93 AM peak-hour trips and 106 PM peak-hour trips. However, this trip generation is well within the trip caps that were established at the time of PPS 4-08002. Consequently, no further traffic analysis is necessary for this PPS. Since this development falls within the trip caps outlined on Conditions 42, 47, and 48 of PPS 4-08002, no off-site improvement will be required of this PPS.

Westphalia Public Facilities Financing and Implementation Program (PFFIP)

On October 26, 2010, the Prince George's County Council approved CR-66-2010, establishing a PFFIP district for the financing and construction of the interchange for a total cost of \$79,990,000.00. Pursuant to CR-66-2010 (Sections 6, 7 and 8), a cost allocation of the interchange has been determined for all properties within the PFFIP district. The allocation for each development is based on the proportion (percentage) of average daily trips generated by each development passing through the intersection, to the estimated total average daily trips contributed by all the developments in the district passing through the same intersection. The PPS's future traffic impact (or average daily trips) becomes the basis on which each development's share of the overall cost is calculated. Since this development trip generation falls within the grandfathered trip cap, no participation in this funding strategy will be required.

Based on the preceding findings, adequate transportation facilities will exist to serve the subdivision, in accordance with Subtitle 24.

10. **Site Access and Layout**—The subject property is bound by private rights-of-way Snapping Turtle Lane to the north, Manor Park Drive to the south, and Bluestone Way to the west. Woodyard Road, a public right-of-way, abuts the subject property to the east. Water Rock Way, a private street previously approved under DSP-19062, divides the subject site into two parts. On the west side of Water Rock Way are Blocks O and P, separated by Turtle Drive. On the east side of Water Rock Way are Blocks Q and R, separated by Riverstone Way. Riverstone Way and Turtle Drive are located within the boundaries of this PPS; however, Water Rock Way is not. The internal streets connect to the perimeter streets outside the PPS boundaries at locations which bring them into alignment with the cross streets of adjacent blocks. A system of internal alleys is also included to serve the lots. The streets and alleys of the development are designed in a grid pattern which will enhance the internal circulation of the property. The site will ultimately connect to adjacent development within Parkside, located north of Snapping Turtle Lane; to adjacent development within the Moore Property, located west of Bluestone Way; and to adjacent development within Westphalia Town Center North, east of Woodyard Road and south of Manor Park Drive.

Eleven lots along Manor Park Drive are shown with front driveway access to that street. However, the rest of the lots are provided rear access from the alleys. No townhouse lots with frontage on Woodyard Road, the sole perimeter public street, have direct vehicular access to the public street, per DPIE requirements; these lots are served by private Alley 4. No alleys have dead ends longer than 150 feet. One alley, Rustling Reed Road, has been named for addressing purposes, as the lots served by this alley front on private Snapping Turtle Park.

Variation

The use of private alleys to serve townhouse development in the M-X-T Zone is permitted, in accordance with Section 24-128(b)(7)(A), with the stipulation that when alleys are used to serve townhouse lots the lots must also front on a public street. However, in this case, the applicant proposed that certain lots front on private streets or open space instead. Specifically, the following lots are served by private alleys and do not have frontage on a public street:

- Lots 1–24, Block O
- Lots 1–24, Block P
- Lots 1–19, Block Q
- Lots 26–39, Block Q
- Lots 1–22, Block R

In order to permit the use of alleys to serve these lots, the applicant requested a variation from Section 24-128(b)(7)(A).

Section 24-113 of the prior Subdivision Regulations requires that the following criteria be met for the Planning Board to approve a variation. The criteria are in **BOLD** text below, while findings for each criterion are in plain text.

(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 Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:**

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

The Subdivision Regulations generally require frontage on public streets to ensure adequate access and public safety. The affected lots will have rear-loaded garage units, which allow vehicles to access each unit from the alleys rather than directly from the private streets. The alleys connect to the private streets and then to public streets for full circulation. A truck turning exhibit was submitted with the PPS demonstrating the design will feature safe access for emergency vehicles. The design separates vehicular traffic using the alleys from pedestrian traffic using the sidewalks in front of the units, thereby reducing the number of sidewalk/driveway crossings, and improving safety for residents and visitors. This better achieves the purpose of the Subdivision Regulations that land be

subdivided in such a way that it can be used safely for building purposes without danger to public safety, health, and welfare.

(ii) 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 property is unique in that it has a recent DSP which established a grid development pattern of private streets and alleys for the site. The street and alley layout is consistent between DSP-19062 and the subject PPS. While in theory, additional public streets could be provided in lieu of the private streets, there would be no advantage to doing this. Rather, the private streets act as a logical extension of the public streets, reduce the road maintenance burden of the operating agency, and allow greater flexibility in the design of the subdivision (for instance, by allowing some townhouse lots to have front access onto the streets). In addition, the street grid allows for the placement of a variety of open spaces within and at the edges of the blocks. From the standpoint of future homeowners, some may find the lots fronting on these open spaces to be more desirable than the lots fronting on the streets. Private road and open space frontage were also judged to be appropriate for the units at the time of DSP-19062 when the units were proposed under a condominium regime. Changing the units from condominium to fee-simple ownership will not create a need for the units to be served by public streets. The development pattern is a unique condition on which the variation is based, is unique to the property for which the variation is sought, and is not applicable generally to other properties.

(iii) The variation does not constitute a violation of any other applicable law, ordinance, or regulation.

There are no known applicable laws, ordinances, or regulations that will be violated with the granting of this variation. The approval of a variation is under the sole authority of the Planning Board. This request was referred to the road operating agency and the Prince George's County Fire/EMS Department for review and comments, neither of which have objected to this request.

(iv) 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 the strict letter of these regulations is carried out.

The particular physical surroundings of this development include approved and proposed developments featuring a grid pattern similar to the one included with the subject PPS. Within these boundaries, the applicant has proposed a compact development pattern within the developable areas of the site, supported by the previously discussed grid of public and private streets. If the strict letter of

Section 24-128(b)(7)(A) were to be carried out, the applicant would need to significantly alter this development pattern, to include additional public streets and further constrain the lot placement. This would constitute a particular hardship to the owner rather than a mere inconvenience, given that, as established above, there would be no particular benefit which would accrue to the development from this alteration. Due to the constraints provided by the physical surroundings, a grid pattern is the most efficient way of attaining the approved density of the site, and a different development pattern that conforms to Section 24-128(b)(7)(A), even one that is still a grid, may be less efficient. Therefore, because of the particular physical surroundings of this specific property, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations is carried out.

- (v) **In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily 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.**

This property is not in any of the above listed zones. Therefore, this section does not apply.

The site is unique to the surrounding properties, and the variation request is supported by the required findings. Pursuant to Section 24-113(a) of the prior Subdivision Regulations, the Planning Board may approve a variation when it finds that extraordinary hardship or practical difficulties may result from strict compliance with the Subdivision Regulations, and/or when it finds that the purposes of the Subdivision Regulations may be served to a greater extent by an alternative proposal, provided that the variation does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Because the site plan demonstrates adequate access for residents, visitors, and emergency services, the applicant may indeed encounter a practical difficulty if strict compliance with the Subdivision Regulations were required, as the applicant would need to make significant changes to their site design that would be neither needed to gain better access, nor guaranteed to actually have a better result. Approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, but instead will result in a better outcome than could be achieved through strict compliance with the Subdivision Regulations, due to the variation allowing for a site layout that places much of the responsibility for the streets on the HOA and gives some of the lots frontage on desirable open spaces. Therefore, the variation to allow the above-listed lots to be served by alleys without fronting on a public street is approved.

The submitted truck turning exhibit shows that fire trucks will use Alley 5 as emergency access. Notwithstanding that the private street and alley layout was previously approved with DSP-19062, this alley is shown on the plans as having a pavement width of 20 feet, which is not

sufficient for fire access. Prior to signature approval, the PPS shall be revised to show a 22-foot pavement width for this alley. The follow-up DSP shall also show the change.

11. **Schools**—This PPS was reviewed for impact on school facilities, in accordance with Section 24-122.02 of the prior Subdivision Regulations, and Council Resolutions CR-23-2001 and CR-38-2002, *Amended Adequate Public Facilities Regulations for Schools*. Per Section 24-122.02(a)(2), the subdivision is considered adequate when the future student enrollment does not exceed 105 percent of the state-rated capacity. The subject property is located within Cluster 4, as identified in the *Pupil Yield Factors and Public-School Clusters* 2021 Update. An analysis was conducted and the results are as follows:

Impact on Affected Public School Clusters by Dwelling Units

	Affected School Cluster		
	Elementary School Cluster 4	Middle School Cluster 4	High School Cluster 4
Single Family Attached Dwelling Units	133 DU	133 DU	133 DU
Pupil Yield Factor (PYF) – Single Family Attached (SFA)	0.104	0.072	0.091
SFD x PYF = Future Subdivision Enrollment	14	10	12
Adjusted Student Enrollment 9/30/21	12,730	10,182	7,914
Total Future Student Enrollment	12,744	10,192	7,926
State Rated Capacity	17,095	10,737	8,829
Percent Capacity	75%	95%	90%

Per Section 24-114.01 of the prior Subdivision Regulations, School Planning Capacity Analysis, this adequacy analysis was completed for planning purposes to assess the need for new or expanded school facilities; it is not a condition of approval for a subdivision.

Section 10-192.01 of the Prince George’s County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$11,020 per dwelling if a building is located between I-95/495 (Capital Beltway) and the District of Columbia; \$11,020 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 \$18,900 per dwelling for all other buildings. This project is located outside the Capital Beltway; thus, the surcharge fee is \$18,900 per dwelling unit. This fee is to be paid to DPIE at the time of issuance of each building permit.

This PPS is found to conform to the sector plan recommendations for schools, as discussed in the Public Facilities finding below.

12. **Public Facilities**—In accordance with Section 24-122.01 of the prior Subdivision Regulations, water and sewerage, fire and rescue, and police facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated December 14, 2022 (Ray to Diaz-Campbell), and incorporated by reference herein.

Master Plan Conformance

This PPS was reviewed for conformance to the sector plan, in accordance with Section 24-121(a)(5). The sector plan provides a goal and policies related to public facilities (pages 48–50). Specifically, the sector plan goal is to “Provide needed public facilities and infrastructure to create a quality community and support the planned land use program consistent with county standards,” and the policies and their associated strategies relate to schools, public safety, libraries, and implementation. The first three policies are inapplicable to this site because there are no police, fire and emergency medical service facilities, schools, or libraries proposed on the subject property. The public utility easements (PUEs) to be provided on the property are supportive of the implementation policy’s strategy to “develop a comprehensive underground utilities network, particularly for the Westphalia Town Center area, that addresses the location of public utility easements (including fiber optic lines).” The PPS conforms to the relevant public facilities policies of the sector plan.

The 2008 *Approved Public Safety Facilities Master Plan* also provides guidance on the location and timing of upgrades and renovations to existing facilities and construction of new facilities, however, none of its recommendations affect the subject site.

13. **Use Conversion**—The total development included in this PPS is for 133 townhouse lots and 7 HOA parcels. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, as set forth in the resolution of approval and reflected on the PPS, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.
14. **Public Utility Easement**—In accordance with Section 24-122(a) of the prior Subdivision Regulations, when utility easements are required by a public company, the subdivider shall 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 standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. In addition, Section 24-128(b)(12) of the prior Subdivision Regulations requires that all private streets have a PUE along at least one side of the right-of-way. The subject property fronts on and includes a grid pattern of public and private roads. The PUEs are provided on the PPS in the required locations. It is noted that Rustling Reed Road is an alley, but has been provided a street name in order to provide addressing for emergency, delivery, and other directional operations because the lots front on an open space rather than a public or private street.

15. **Historic**—The sector plan contains policies and goals related to historic preservation (pages 66-68). However, these are not specific to the subject site, or applicable to the development.

A Phase I archeology survey was conducted on the subject property in 2006, by URS Corporation. A report, *Phase I Archaeological Survey of the Westphalia Center Development Tract, Prince George's County, Maryland*, was received by the Prince George's County Planning Department and was reviewed by Historic Preservation staff. Six archeological sites were identified: 18PR848, 18PR849, 18PR850, 18PR851, 18PR852, and 18PR853. All were identified as early to mid-20th century house sites, and no further work on any of the identified sites was recommended. Historic Preservation staff concurred that no additional archeological investigations were necessary on the Westphalia Town Center property. The subject property does not contain, and is not adjacent to any designated Prince George's County historic sites or resources.

16. **Environmental**—The subject PPS was received on November 7, 2022. Environmental comments were provided verbally in a Subdivision and Development Review Committee meeting on October 28, 2022.

The following applications and plans are associated with the subject site and were previously reviewed:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
CSP-07004	TCPI-014-08	County Council	Approved/Second Revised Order	09/21/2009	N/A
4-08002	TCPI-014-08-01	Planning Board	Approved	06/04/2009	09-93
CSP-07004-01	TCPI-014-08-02	County Council	Approved	02/24/2014	N/A
DSP-12043 Special Purpose	N/A	Planning Board	Approved	05/05/2013	13-51
DSP-12017 Infrastructure	TCPII-029-12	Planning Board	Approved	10/18/2012	12-99(C)
N/A	TCPII-029-12-01	Staff	Approved	09/23/2013	N/A
DSP-13006	TCPII-029-12-02	County Council	Approved	02/24/2014	N/A
N/A	TCPII-029-12-03	Staff	Approved	03/25/2013	N/A
N/A	TCPII-029-12-04	Staff	Approved	10/22/2014	N/A
N/A	NRI-094-06	Staff	Approved	10/19/2006	N/A
N/A	NRI-094-06-01	Staff	Approved	12/16/2008	N/A
N/A	NRI-094-06-02	Staff	Approved	7/11/2019	N/A
DSP-19008	TCPII-029-12-05	Planning Board	Withdrawn	9/24/2019	N/A
N/A	TCPII-029-12-06	Staff	Approved	9/12/2019	N/A
N/A	TCPII-029-12-07	Staff	Approved	9/12/2019	N/A
N/A	TCPII-029-12-08	Staff	Approved	9/12/2019	N/A
CSP-07004-02	TCPI-014-08-03	Planning Board	Withdrawn	9/24/2019	N/A
DSP-12017-01 Presidential Parkway East	TCPII-029-12-09	Planning Director	Approved	5/27/2020	N/A

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
DSP-19009	TCPII-029-12-10	Planning Board	Pending	11/10/2020	N/A
N/A	TCPII-029-12-11 (Rough Grading for Section 5)	Staff	Approved	10/30/2020	N/A
DSP-12017-02 Presidential Parkway West	TCPII-029-12-12	Planning Director	Approved	10/5/2020	N/A
DSP-19062 Section 5	TCPII-029-12-13	Planning Board	Approved	7/27/2022	2021-10
DSP-19062-01 Section 5	TCPII-029-12-13	Planning Director	Approved	10/3/2022	N/A
PPS 4-21008	TCPI-014-08-04	Planning Board	Approved	01/19/2023	2023-04

Grandfathering

This project is not grandfathered with respect to the environmental regulations contained in Subtitle 25, and prior Subtitles 24 and 27 that came into effect on September 1, 2010, because the site has a new PPS (4-21008). This project is subject to the woodland conservation regulations adopted in 2010 and 2012.

Site Description

The overall Westphalia Center, subject to PPS 4-08002, is a 482.57-acre development site in the M-X-T Zone, located on the north side of MD 4 (Pennsylvania Avenue), to the west of Old Marlboro Pike, and bordered by Melwood Road to the north. A review of the approved natural resource inventory (NRI-094-06-02) indicates that streams, 100-year floodplain, wetlands, severe slopes, and areas of steep slopes with highly erodible soils are found to occur on the overall property. There are 158 specimen trees identified on-site. According to the Prince George's County Soil Survey, the soils found on-site are Dodon fine sandy loam, Marr-Dodon complex, and Widewater and Issue. According to available information, Marlboro clay does not occur on this property, but occurs just north of the site. 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. Habitats for forest interior dwelling species does exist on-site. Melwood Road is a designated historic road located to the east and north of the subject site. This site is in the Western Branch watershed of the Patuxent River basin.

The site is located within Environmental Strategy Area 2 of the Regulated Environmental Protection Areas Map, and in the Established Communities of the General Plan Growth Policy, as designated by Plan 2035. The General Plan Generalized Land Use (Future) is mixed-use.

The 2017 *Countywide Green Infrastructure Plan* of the *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (Green Infrastructure Plan) shows that regulated and evaluation areas of the network are present on-site. The site is not located in a municipality.

The current PPS is limited to 9.38 acres located within Westphalia Town Center North, most recently reviewed under DSP-19062. Recent tree conservation plans identify the area subject to DSP-19062 as Section 5 of Westphalia Town Center.

Master Plan Conformance

Sector Plan

PPS 4-08002, for the overall development of Westphalia Center, was previously reviewed for conformance with the applicable policies and strategies of the sector plan. The subject PPS is for a small subdivision (9.38 acres) embedded in Westphalia Town Center North (Section 5). The development remains in conformance with the applicable policies and strategies.

Conformance with the Green Infrastructure Plan

According to the Green Infrastructure Plan, the site of PPS 4-21008 is within the evaluation area of the designated network. The conceptual design, as reflected on the PPS and the Type 1 tree conservation plan (TCP1), is in keeping with the goals of the Green Infrastructure Plan and focuses development outside of the most sensitive areas of the site.

Environmental Review

Natural Resources Inventory/Existing Conditions

Revised NRI-094-06-02 was approved by the Environmental Planning Section on July 11, 2019. A review of the approved NRI-094-06-02 indicates that streams, 100-year floodplain, wetlands, severe slopes, and areas of steep slopes with highly erodible soils are found to occur on the overall property, but are not found in the area of the current subdivision proposal. There are 158 specimen trees on the Westphalia Town Center overall site, but none within the limits of PPS 4-21008.

Woodland Conservation

A revision to TCP1-014-08-02 was required with the subject PPS, which was submitted and is identified as TCP1-014-08-04. It was determined that there was no previous woodland conservation within the limits of PPS 4-21008. TCP1-014-08-04 is consistent with the previously approved tree conservation plans for Section 5.

Type 2 Tree Conservation Plan TCP2-029-12-13 was approved by the Planning Board with DSP-19062, for Section 5 of the Westphalia Town Center. This TCP2 addresses the woodland conservation requirement for the 9.38-acre area of 4-21008, as part of the woodland conservation requirements calculated for Section 5. The woodland conservation requirements for Westphalia Town Center, Section 5, were satisfied with 3.08 acres of woodland preservation, 1.77 acres of afforestation/reforestation, 0.07 acre of fee-in-lieu, and 20.80 acres of off-site woodland conservation.

TCP1-014-08-04 is found to be in conformation with TCP1-014-08-02 with regards to the amount of woodland conservation provided for Westphalia Center, Section 5. There is an overall TCP2 for the Westphalia Center, which was previously revised to include Section 5 with DSP-19062 and TCP2-029-12-13.

Specimen Trees

This project is not grandfathered from the current environmental regulations found in Subtitle 24, and prior Subtitles 25 and 27 that became effective in 2010. There are no specimen, champion, or historic trees located within the boundaries of the subject PPS, and there are no impacts to off-site critical root zones.

Preservation of Regulated Environmental Features/Primary Management Area

Impacts to the primary management area were approved with PPS 4-08002 for the overall Westphalia Center. Any impacts to regulated environmental features are not grandfathered for the subject PPS. There are no regulated environmental features within the limits of PPS 4-21008, and no off-site grading impacts to regulated environmental features.

There are no regulated environmental features on the subject PPS to be preserved and/or restored, to the fullest extent possible. This is consistent with the limits of disturbance on the previously approved CSP-07004-02 and TCP1-014-08-02, and the current limits of PPS 4-21008 and revised TCP1-014-08-04. No regulated environmental features impacts are included within the boundaries of the subject PPS.

Based on the foregoing findings, the PPS conforms to the relevant environmental policies of the sector plan and Green Infrastructure Plan, and the relevant environmental requirements of prior Subtitle 24, and Subtitle 25.

17. **Urban Design**—The development project will be subject to DSP review.

Conformance with the Requirements of the Prince George's County Zoning Ordinance

The subject site is part of a mixed-use development, which is permitted, subject to the approval of a DSP. This PPS is subject to the requirements of the M-X-T Zone, under the prior Zoning Ordinance. The subdivision will be required to demonstrate conformance with the applicable requirements of the Zoning Ordinance at the time of DSP review including, but not limited to the following:

- Sections 27-548 requirements for the M-X-T Zone, as applicable
- Part 10C Military Installation Overlay (M-I-O) Zone
- Part 11 Off-Street Parking and Loading, and
- Part 12 Signs

It is noted that the site layout was previously reviewed and approved with DSP-19062. Therefore, it is anticipated that the required DSP will be a limited minor amendment with the primary purpose of adding the new lot and parcel boundaries of this PPS to the DSP. A limited minor

amendment may be submitted provided it meets the criteria of Section 27-289(c) of the prior Zoning Ordinance.

Conformance with the Tree Canopy Coverage Ordinance

Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require building and grading permits that propose 5,000 square feet or greater of gross floor area or disturbance. Properties in the M-X-T Zone are required to provide a minimum of 10 percent of the gross tract area in TCC. The site is 9.38 acres and therefore, requires a minimum of 0.94 acre of 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

This development in the M-X-T Zone will be subject to the requirements of the 2010 *Prince George's County Landscape Manual*. Specifically, the site is subject to Section 4.1, Residential Requirements; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Streets; Section 4.7, Buffering Incompatible Uses; Section 4.9, Sustainable Landscaping Requirements., and Section 4.10 Requirements for Private Streets. Conformance with these requirements will be evaluated at the time of DSP.

18. **Westphalia Sector Development Review Advisory Council**—The Westphalia Sector Development Review Advisory Council did not provided comments on the subject PPS.


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 Geraldo, with Commissioners Washington, Geraldo, Bailey, Doerner, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, January 19, 2023, in Upper Marlboro, Maryland.

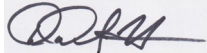
Adopted by the Prince George's County Planning Board this 9th day of February 2023.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:EDC:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: February 1, 2023