

CORRECTED RESOLUTION

WHEREAS, the Prince George’s County Planning Board is charged with the approval of Comprehensive Design Plans pursuant to Part 8, Division 4 of the Zoning Ordinance of the Prince George’s County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on January 30, 2020, regarding Comprehensive Design Plan CDP-0501-02 for Parkside, the Planning Board finds:

1. **Request:** The application is a request to amend Condition 25 of the Prince George’s County District Council’s Order of approving Comprehensive Design Plan CDP-0501, as it relates to the timing for commercial development in the Local Activity Center (L-A-C) zoned portion of the property. This condition, with the initially requested amendment, reads as follows:

25. **Prior to issuance of the ~~[2,000th]~~ 2,500th building permit in the R-M or L-A-C zoned land, a minimum 70,000 square feet of the proposed commercial gross floor area in the L-A-C Zone shall be constructed.**

The remaining conditions attached to the prior approval of CDP-0501, as amended with CDP-0501-01, remain unchanged, valid, and will govern development of the Parkside project.

2. **Development Data Summary:**

	PREVIOUSLY APPROVED	APPROVED
Zone(s)	R-M & L-A-C	R-M & L-A-C
Use(s)	Residential, Commercial/Retail	Residential, Commercial/Retail
Acreage	757	757
Dwelling units	3,648	3,648
of which R-M Zone Residential	2,124	2,124
R-M Zone Mixed Retirement Development	1,224	1,224
L-A-C Zone Multifamily condominium	300	300
Commercial/retail uses (GFA in square feet)	170,000	170,000

3. **Location:** The subject property is a large tract of land that originally consisted of wooded, undeveloped land and active farm land, located approximately 3,000 feet east of the intersection of Westphalia Road and MD 4 (Pennsylvania Avenue), and measuring approximately 757 acres, within Planning Area 78, Council District 6.
4. **Surrounding Uses:** The site is bounded to the north by existing subdivisions and undeveloped land in the Rural Residential (R-R), Residential-Agricultural (R-A), Commercial Miscellaneous

(C-M), Commercial Office (C-O), and Townhouse (R-T) Zones; to the east by a large residential subdivision known as Marlboro Ridge (formerly Village of Claggett Farm) and scattered undeveloped land in the R-R and R-A Zones; to the south by a planned large development known as Westphalia Town Center in the Mixed Use-Transportation Oriented (M-X-T) Zone, existing single-family detached houses, and undeveloped land in the R-A Zone; and to the west by existing development (Mirant Center) in the Light Industrial (I-1) Zone, existing residences in the R-R and R-A Zones, and undeveloped land in the I-1 and M-X-T Zones. Most of the property is also covered by the Military Installation Overlay Zone, as it is located in the vicinity of Joint Base Andrews.

5. **Previous Approvals:** On September 29, 2005, the Prince George's County Planning Board approved Zoning Map Amendments (ZMA) A-9965 and A-9966, which rezoned the subject 757-acre property from the R-A Zone to the Residential Medium Development (R-M, 3.6-5.7) Zone with a mixed-retirement development and to the L-A-C Zone with a residential component, subject to 19 conditions. On October 7, 2005, the Prince George's County Zoning Hearing Examiner (ZHE) heard ZMA A-9965 and A-9966. On October 26, 2005, the ZHE approved ZMA A-9965 and A-9966 with two conditions, which included all of the conditions of approval of the Planning Board as subconditions. On the same date, the ZHE's decisions on A-9965 and A-9966 were also filed with the District Council. The District Council finally approved both ZMA applications on February 13, 2006, and the approving Ordinances became effective on March 9, 2006.

On February 23, 2006, the Planning Board approved CDP-0501 (PGCPB Resolution No. 06-56(C)) for the entire Smith Home Farm project with 30 conditions. On June 12, 2006, the District Council adopted the findings of the Planning Board and approved CDP-0501 with 34 conditions. On May 12, 2012, the District Council affirmed the Planning Board's decision on CDP-0501-01 (PGCPB Resolution No. 11-112) to amend Condition 3 regarding construction of the MD 4/Westphalia Road interchange; to amend Condition 7 regarding the location and size of the proposed community center and pool; and to amend Condition 16 regarding the size of the market-rate, single-family, attached lots in the R-M Zone, with five conditions. On March 28, 2016, the District Council approved a reconsideration of approved CDP-0501 specifically related to Conditions 10, 11, 24, 31, and 32; to findings related to services for the design, grading, and constriction of the Westphalia Central Park; and to issuance of building permits for development of the subject property, with 31 conditions.

In addition to the prior approvals for the site, two later actions by the District Council have revised several conditions of CDP-0501. The 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA) was approved by the District Council on February 6, 2007. In Council Resolution CR-2-2007, the District Council modified several conditions in CDP-0501. Specifically, the District Council prescribed a minimum residential lot size for single-family attached lots (Condition 16) near the Westphalia Town Center to be in the range of 1,300 to 1,800 square feet in Amendment 1 and further, in the resolution, established a minimum lot size for single-family attached dwellings in the R-M Zone to be 1,300 square feet; established park fees (Condition 22) of \$3,500 per new dwelling unit (in 2006 dollars) in Amendment 8; and further clarified the intent of the District Council

regarding Conditions 10–23 in CDP-0501 for Smith Home Farm to require submission of a specific design plan (SDP) for the Central Park following approval of the Westphalia Sector Plan and SMA, and not as the second SDP, as stated in Condition 23.

On October 26, 2010, the District Council approved a resolution concerning *Public Facilities Financing and Implementation Program District Westphalia Center* to provide financing strategies including, but not limited to, pro-rata contributions, sale leasebacks, funding clubs, the Surplus Capacity Reimbursement Procedure provided in Section 24-124 of the Subdivision Regulations, and other methods in order to ensure timely provision of adequate public facilities for larger projects such as Westphalia.

6. **Design Features:** This revision to previously approved CDP-0501 is limited to Condition 25 only, with no impact to the remaining conditions of the prior approval, which are still valid and governing the development of the entire property.

Ownership of the property changed since the original approval in 2005. The subject applicant purchased approximately 646 acres of the R-M-zoned portion in 2011 from the original applicant, DASC, LLC. CDP-0501 approved a total of 3,648 residential units, of which 300 units are in the L-A-C Zone, which is still owned by DASC, LLC, or its successors and/or assigns. In addition, there are 170,000 square feet of commercial/retail uses included in the L-A-C Zone. The applicant-owned portion of the property includes up to 2,112 residential units. As of the resolution, 848 residential permits have been issued for single-family detached and attached houses in the development. The requested revision of the timing trigger from the previously approved 2,000 residential building permits to 2,500, would allow DASC, LLC, or its successors and/or assigns to construct 388 units, in addition to the total 2,112 units to be completed by the applicant so that a critical mass can be achieved to support the commercial development in the L-A-C-zoned portion of the development.

At the public hearing before the Planning Board on January 30, 2020, Stan Brown, Esq, the People's Zoning Counsel, inquired as to whether the applicant's proposal to modify Condition 25 in the manner requested could occur without DASC, LLC, its successors and/or assigns, being added as an "applicant" to CDP-0501-02. An increase in the permit trigger to 2,500 building permits would grant DASC, LLC, its successors and/or assigns, the ability to construct an additional 388 units on its portions of the site before the 70,000 square feet of commercial space in the L-A-C zoned portion of the project was required to be constructed. The applicant (i.e., SHF Project Owner, LLC) controls Sections 1A, 1B, 2, 3, 4, 5, and 6 of Parkside totaling approximately 646 acres of the entire 757-acre project. The applicant purchased its portion of Parkside from DASC, LLC, and has the right to construct 2,112 units on its portion of the project. DASC, LLC, its successors and/or assigns, own Section 7 and the L-A-C zoned portion of the project. The applicant does not own the L-A-C zoned portion of the development and cannot control the construction of any of the commercial space within Parkside. The applicant's attorney, Robert J. Antonetti, Jr., Esq., stated at the public hearing before the Planning Board that the applicant was willing to modify its requested revision to Condition 25 to alter the timing trigger from the previously approved 2,000th residential building permit to the 2,113th residential permit. This change would ensure that Condition 25 was amended in a manner that directly

impacts the applicant's ability to develop 2,112 residential units on its portions of the Parkside development. Further, the 2,112 units to be completed by the applicant will help create the critical mass needed to support the commercial development in the L-A-C-zoned portion of the development. The Planning Board and the People's Zoning Counsel had no objection to the modification proffered by the applicant. After discussion, the Planning Board agreed to alter the timing trigger in Condition 25 from the previously approved 2,000th residential building permit to the 2,113th residential permit.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Map Amendments (Basic Plans) A-9965 and A-9966:** The District Council heard the ZMA applications on January 23, 2006 and affirmed the ZHE's recommendations. The District Council's approval became effective on February 13, 2006, with a total of three conditions. Conformance with the requirements of the basic plans was found at the time of CDP-0501 approval. This application is a revision to one specific condition, Condition 25, attached to the previously approved CDP and does not impact the previous findings for conformance with both A-9965 and A-9966.
8. **Prince George's County Zoning Ordinance:** The requirements of the Zoning Ordinance governing development in the R-M and the L-A-C Zones are discussed, as follows:
 - a. **Density Increments:** This application does not propose any revision to the previously approved density for the project.
 - b. **Development Standards:** A comprehensive set of development standards has been approved with CDP-0501 for the entire Parkside development. This application proposes to revise Condition 25 of the District Council's Order only. The remaining development standards, as approved in CDP-0501, remain valid and will govern the development of the site.
 - c. Section 27-521, Required Findings for Approval in Comprehensive Design Zones, of the Zoning Ordinance requires the Planning Board to find conformance with the following findings for approval of a CDP:
 - (1) **The plan is in conformance with the Basic Plan approved by application per Section 27-195; or when the property was placed in a Comprehensive Design Zone through a Sectional Map Amendment per Section 27-223, was approved after October 1, 2006, and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;**
 - (2) **The proposed plan would result in a development with a better environment than could be achieved under other regulations;**

- (3) Approval is warranted by the way in which the Comprehensive Design Plan includes design elements, facilities, and amenities, and satisfies the needs of the residents, employees, or guests of the project;
- (4) The proposed development will be compatible with existing land uses, zoning, and facilities in the immediate surroundings;
- (5) Land uses and facilities covered by the Comprehensive Design Plan will be compatible with each other in relation to:
 - (A) Amounts of building coverage and open space;
 - (B) Building setbacks from streets and abutting land uses; and
 - (C) Circulation access points;
- (6) Each staged unit of the development (as well as the total development) can exist as a unit capable of sustaining an environment of continuing quality and stability;
- (7) The staging of development will not be an unreasonable burden on available public facilities;
- (8) Where a Comprehensive Design Plan proposal includes an adaptive use of a Historic Site, the Planning Board shall find that:
 - (A) The proposed adaptive use will not adversely affect distinguishing exterior architectural features or important historic landscape features in the established environmental setting;
 - (B) Parking lot layout, materials, and landscaping are designed to preserve the integrity and character of the Historic Site;
 - (C) The design, materials, height, proportion, and scale of a proposed enlargement or extension of a Historic Site, or of a new structure within the environmental setting, are in keeping with the character of the Historic Site;
- (9) The Plan incorporates the applicable design guidelines set forth in Section 27-274 of Part 3, Division 9, of this Subtitle, and where townhouses are proposed in the Plan, with the exception of the V-L and V-M Zones, the requirements set forth in Section 27-433(d); and

- (10) **The Plan is in conformance with an approved Type 1 Tree Conservation Plan;**

The Planning Board made the above findings at the time of CDP-0501 approval, as stated in the resolution (PGCPB No. 06-56), which was affirmed by the District Council. This amendment is limited to one condition attached to the approval and does not alter any required findings. Therefore, the subject application is in conformance with all the above required findings for approval.

- (11) **The Plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130-(b)(5);**

This application does not change the previous findings regarding this requirement.

- (12) **Notwithstanding Section 27-521(a)(9), property placed in a Comprehensive Design Zone pursuant to Section 27-226(f)(4), shall follow the guidelines set forth in Section 27-480(g)(1) and (2); and**

Section 27-226(f)(4) of the Zoning Ordinance is the District Council procedure for approving a comprehensive design zone application as part of an SMA. This provision is not applicable to the subject application because the property was rezoned through two basic plan applications, not through an SMA.

- (13) **For a Regional Urban Community, the plan conforms to the requirements stated in the definition of the use and satisfies the requirements for the use in Section 27-508(a)(1) and Section 27-508(a)(2) of this Code.**

This provision is not applicable to the subject application because Parkside is not a regional urban community.

9. **Comprehensive Design Plan CDP-0501 and its amendment:** The District Council approved both the original CDP-0501 and CDP-0501-01 with 34 and 5 conditions, respectively. The District Council also approved a reconsideration of conditions in 2016, as discussed in detail in Finding 5 above. This application has not altered any previous findings and is limited to the revision of Condition 25, as stated in the District Council Order, as it relates to the timing for development of a certain amount of commercial/retail gross floor area. As discussed above, all previous findings and conditions, except Condition 25 as modified in this application, are still valid and govern the development under this application.
10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance and the Prince George's County Tree Canopy Coverage Ordinance:** Since this application is limited to the revision of Condition 25, as it relates to the timing for development of a certain amount of commercial/retail gross floor area, there is no impact on previous findings regarding the site's

conformance with the requirements of the Woodland and Wildlife Habitat Conservation Ordinance and the Tree Canopy Coverage Ordinance.

11. Further Planning Board Findings and Comments from Other Entities: Given the limited scope of the request, the subject application was referred to only a few concerned agencies and divisions. The referral comments are included herein by reference, and major findings are summarized, as follows:

- a. **Transportation Planning**—The Planning Board reviewed a comprehensive discussion of the background and prior approvals governing this application, and concluded that this amendment will not result in any additional traffic impact. Consequently, this change will have no impact on the transportation adequacy of the overall development.
- b. **Special Projects**—The Planning Board found that the subject application does not require a finding of adequacy due to its limited scope.
- c. **Subdivision and Zoning**—The Planning Board concluded that there are no subdivision issues with this request.
- d. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated November 27, 2019 (Giles to Zhang), DPIE had no objection to the proposed revision to Condition 25.
- e. **Westphalia Sector Development Review Committee (WSDRC)**—WSDRC did not respond to the referral request.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Comprehensive Design Plan CDP-0501-02 for the above described land, subject to the following condition. This approval does not affect the remaining conditions of CDP 0501 and CDP-0501-01, all of which remain in full force and effect.

25. Prior to issuance of the 2,113th building permit in the R-M or L-A-C zoned land, a minimum 70,000 square feet of the proposed commercial gross floor area in the L-A-C Zone shall be constructed.

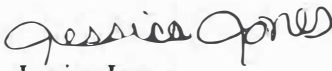
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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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 and Hewlett voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, January 30, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of February 2020.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

EMH:JJ:HZ:nz

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 3/3/2020