



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
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PGCPB No. 2023-15(A)

File No. DSP-21001

A M D E N D E D R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, a new Zoning Ordinance, Subtitle 27, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, the subject property is within the Residential, Single-Family-65 Zone (RSF-65); and

WHEREAS, pursuant to Section 27-1704(b) of the Zoning Ordinance, development applications for projects with prior approvals may continue to be reviewed and decided in accordance with the Zoning Ordinance under which it was approved; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed this application under the Zoning Ordinance in existence prior to April 1, 2022; and

WHEREAS, in consideration of evidence presented at public hearings on January 12, 2023 and February 2, 2023, regarding Detailed Site Plan DSP-21001 for Suffrage Point, the Planning Board ~~†[finds:]~~ approved DSP-21001 and adopted PGCPB Resolution No. 2023-15 on March 2, 2023, memorializing its approval; and

~~†~~WHEREAS, the District Council elected to review the Planning Board's approval on March 13, 2023, heard oral arguments on the case on April 24, 2023 and May 8, 2023, and voted to remand the case to the Planning Board on May 9, 2023 to reopen the record and take further testimony or evidence on five specific issues; and

~~†~~WHEREAS, on October 5, 2023, the Planning Board voted to continue the hearing date to November 2, 2023; and

~~†~~WHEREAS, in consideration of the written evidence and testimony presented by the applicant, the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), and opponents at a public hearing on November 2, 2023, regarding the remand of Detailed Site Plan DSP-21001 Suffrage Point, the Planning Board finds:

1. **Request:** The subject detailed site plan (DSP) application proposes to develop 41 single-family attached dwelling units on the lower parcel of the project formerly known as Magruder Pointe.

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2. **Development Data Summary:**

	EXISTING	PROPOSED
Zones	RSF-65	RSF-65 (R-55/D-D-O)
Use	Vacant	Single-Family Attached
Gross Acreage	4.66	4.66
Floodplain Acreage	2.95	1.29
Net Acreage	1.71	3.37
Dwelling Units	0	41
Density	N/A	12.17 units/net acre

Architectural Model	Base Finished Square Footage (BFSF)	Below Grade BFSF	Total BFSF	Garage
Chelsea	1,599	445	2,044	2-car
Isabella	1,799	481	2,280	2-car

Parking Spaces	Min. Required*	Max. Allowed* by DDOZ	Provided
41 single-family attached units	41	82	82
Total	41	82	82

Note: *In accordance with the Development District Overlay (D-D-O) Zone, standards for parking are contained in the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* (page 148).

3. **Location:** The larger 8.26-acre Suffrage Point property is located in the southeast quadrant of the intersection of Hamilton Street and 40th Avenue, in Planning Area 68 and Council District 2. The lower parcel, where the development is proposed in this DSP, is located between 40th Place and Driskell Park. The subject site is also located within the Traditional Residential Neighborhood (TRN) Character Area of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* (Gateway Arts District Sector Plan and SMA).
4. **Surrounding Uses:** To the north and northeast of the property, between Hamilton Street and Gallatin Street, is the northern portion of the previously approved Suffrage Point subdivision, zoned Residential, Single-Family-65 Zone (RSF-65). This block features both townhouse and single-family detached dwellings, with the townhouse dwellings oriented to the south and west, and the single-family detached dwellings oriented north and east.

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Land further to the north, between 40th Avenue and Hamilton Street, features single-family detached dwellings zoned RSF-65. East of the property, between Gallatin Street and 40th Place, are multifamily buildings in the Residential, Multifamily-48 Zone. Southeast of the property are single-family detached dwellings in the RSF-65 Zone. Southwest of the property is unimproved Maryland-National Capital Park and Planning Commission (M-NCPPC) owned parkland known as Magruder Woods Park, zoned Reserved Open Space (ROS). West of the property is Driskell Park, in the Agriculture and Preservation Zone, and further west is the M-NCPPC-owned Hamilton Swimming Pool and Splash Park in the ROS Zone. Northwest of the property, between Hamilton Street and 40th Avenue, are multifamily buildings in the Residential, Multifamily-20 Zone, as well as single-family detached dwellings in the RSF-65 Zone. All of the surrounding properties are in the D-D-O Zone implemented by the Gateway Arts District Sector Plan and SMA.

5. **Previous Approvals:** The subject property is located on Tax Map 50 in Grid B1, consists of one outparcel recorded in the Prince George's County Land Records in Plat Book ME 255 page 83 on December 11, 2020, and contains a total of 4.66 acres. The Gateway Arts District Sector Plan and SMA also placed a D-D-O Zone over the property and downzoned this 4.66-acre parcel to the prior Open Space (O-S) Zone.

On July 26, 2018, the Prince George's County Planning Board approved a Conceptual Site Plan, CSP-18002, to recommend rezoning the 4.66-acre southern portion of the property from the O-S Zone to the One-Family Detached Residential (R-55) Zone and amending the list of allowed uses to allow townhouses to be developed on the property, in addition to single-family detached houses. On January 15, 2019, the Prince George's County District Council remanded CSP-18002 back to the Planning Board to consider specific issues. On March 14, 2019, the Planning Board reheard the case, but took no position, and provided an amended resolution (PGCPB Resolution No. 18-74(A)). On May 13, 2019, the District Council reheard the CSP and on June 10, 2019, they issued an order to approve the rezoning from O-S to R-55, with three conditions, to facilitate R-55 development of the entire 8.26 acres for single-family attached and detached units.

CSP-18002 was remanded to the District Council by the Court of Special Appeals of Maryland and the Council issued a new order of approval dated October 17, 2022.

The site is subject to Preliminary Plan of Subdivision (PPS) 4-21052 for Suffrage Point, which was approved on June 16, 2022 (PGCPB Resolution No. 2022-75). This PPS superseded a prior approved PPS, 4-18001, for this 4.66 acres of the overall Suffrage Point development. PPS 4-21052 approved 41 lots and 7 parcels. Of the seven parcels, five are to be conveyed to a homeowners association, while two are to be conveyed to the City of Hyattsville.

The subject site also has an approved Stormwater Management (SWM) Concept Plan, 10823-2018-00, which is valid through March 22, 2025.

6. **Design Features:** The subject DSP proposes development of the lower 4.66-acre parcel, with 41 single-family attached dwelling units. The subject parcel is bounded by the public

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rights-of-way of Hamilton Street, Gallatin Street, and 40th Place to the east, with public parkland to the west.

The proposed 41 single-family attached dwellings are located in two rows, one fronting the public roads to the east and one fronting the parkland to the west, with an intervening parcel for compensatory floodplain storage. A 22-foot-wide alley, which provides access to all the garages, runs between the rows and has two access points, one off Gallatin Street, and the other off 40th Place. All of these townhouse units will have first-floor two-car interior garages.

All of the end townhouse units are highly visible units that need special treatment of the side elevations. A condition has been included herein, requiring the applicant to identify highly visible side elevations.

Architecture

Two architectural models are proposed in this DSP and were reviewed by the Planning Board. The models are the same as approved with DSP-18005, for the upper parcel of the Suffrage Point development.

The two townhouse models have a base finished square footage of 1,599 and 1,799 and an interior, rear-loaded, two-car garage. Total finished gross floor area with all options can be up to 2,044 or 2,280 square feet. The townhouse models are designed with pitched or flat roofs and single or double porches with railings. For those units that are highly visible from public streets and the alley, additional design or material treatments such as adding a brick water table to both the front and side elevations, should be provided. A condition requiring this addition has been included herein.

Security in compact townhouse developments, such as this project, has been a concern among County residents. Maximizing natural surveillance, which is one of the key components of crime prevention through environmental design, in townhouse model design can greatly improve the security of individual units and help to create a safer neighborhood. The townhouse model design should provide security options, including but not limited to, a highly visible front entrance, doorbell camera, front entrance door with side lights, wider door frame, and more windows on all elevations, to the extent practical. The builder should either include the security options in the model selection, at the time of purchase, or provide possible rough-ins to facilitate the homeowner's future installation.

Sustainable site and green building techniques

Per the applicant, the attached houses proposed in this DSP are anticipated to incorporate numerous green building features. In terms of the building envelope, all houses will meet or exceed current energy codes, including such things as R-49 insulation in the roof and R-20 insulation in the walls. All windows installed will be double glazed. All appliances within the houses will be Energy Star rated. The plumbing fixtures will all be selected with water conservation in mind. Every house will have an electric car charging station.

All houses will have deep eaves (most of them with porches), which will help to reduce the

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energy required to keep the house cool in the summer. All roofing materials will be lighter in color to absorb less heat in the summer. The houses will have numerous, tall windows that will enhance daylighting, which will reduce the energy required for lighting. All the houses will be ready to be equipped with solar panels. All houses will be within a 20-minute walk of the West Hyattsville Metro Station, within a 2-minute walk of a bus stop, and will come with a membership to the Capital Bikeshare system. There will be a bikeshare station installed within a 2-minute walk from all of the houses.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prior Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements applicable to site plans in the R-55 and D-D-O Zones, including the site design guidelines of the prior Prince George's County Zoning Ordinance.

Pursuant to Section 27-548.25 of the prior Zoning Ordinance:

- (a) **Prior to issuance of any grading permit for undeveloped property or any building permit in a Development District, a Detailed Site Plan for individual development shall be approved by the Planning Board in accordance with Part 3, Division 9. Site plan submittal requirements for the Development District shall be stated in the Development District Standards. The applicability section of the Development District Standards may exempt from site plan review or limit the review of specific types of development or areas of the Development District.**
- (b) **In approving the Detailed Site Plan, the Planning Board shall find that the site plan meets applicable Development District Standards.**
- (c) **If the applicant so requests, the Planning Board may apply development standards which differ from the Development District Standards, most recently approved or amended by the District Council, unless the Sectional Map Amendment text specifically provides otherwise. The Planning Board shall find that the alternate Development District Standards will benefit the development and the Development District and will not substantially impair implementation of the Master Plan, Master Plan Amendment, or Sector Plan.**
- (d) **Special Exception procedures shall apply to uses within a Development District as provided herein. Uses which would normally require a Special Exception in the underlying zone shall be permitted uses only if the Development District Standards so provide within a table of uses, and such uses shall instead be subject to site plan review by the Planning Board. Development District Standards may restrict or prohibit any such uses. The Planning Board shall find in its approval of the site plan that the use**

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complies with all applicable Development District Standards, meets the general Special Exception standards in Section 27-317(a)(1), (4), (5), and (6), and conforms to the recommendations in the Master Plan, Master Plan Amendment, or Sector Plan.

- (e) If a use would normally require a variance or departure, separate application shall not be required, but the Planning Board shall find in its approval of the site plan that the variance or departure conforms to all applicable Development District Standards.**

In addition, pursuant to Section 27-285(b) of the prior Zoning Ordinance:

- (1) The Planning Board may approve a Detailed Site Plan if it finds that the plan represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use. If it cannot make these findings, the Planning Board may disapprove the Plan.**
- (2) The Planning Board shall also find that the Detailed Site Plan is in general conformance with the approved Conceptual Site Plan (if one was required).**
- (3) The Planning Board may approve a Detailed Site Plan for Infrastructure if it finds that the plan satisfies the site design guidelines as contained in Section 27-274, prevents offsite property damage, and prevents environmental degradation to safeguard the public's health, safety, welfare, and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge.**
- (4) The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).**

The Planning Board finds as follows:

- a. The site is within the D-D-O Zone superimposed by the Gateway Arts District Sector Plan and SMA. According to the sector plan, the D-D-O Zone development district standards replace all those contained in the Zoning Ordinance (page 135), including the site design guidelines for site plans. The proposed single-family detached use is permitted in the TRN character area, and the proposed single-family attached use is permitted, as approved in CSP-18002.
- b. Footnote 2 on page 144 of the Gateway Arts District Sector Plan and SMA states:

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“R-55 zoned properties in the TRN character area within the incorporated City of Hyattsville are exempt from the development standards and will abide by the requirements of the R-55 Zone.”

However, in this case, the applicant obtained a CSP approval, CSP-18002, that rezoned the 4.67-acre lower parcel from the O-S Zone to the R-55 Zone and allowed for the single-family attached (townhouse) use on the subject property. In so doing, the District Council order conditioned that a DSP be required and that it be subject to the D-D-O Zone standards applicable to the TRN character area. This conformance is discussed in Finding 8 below.

The October 19, 2022 Council order approved CSP-18002 with the maximum density for single-family attached development at 12.3 dwelling units per net acre of net lot or tract area. The subject DSP proposes a density of 12.2 dwelling units per net acre based on the proposed floodplain area.

- c. The Gateway Arts District Sector Plan and SMA states, in the D-D-O Zone standards under Site Design, Parking and Loading (page 148), the following:

Standard 5. - Parking for residential and live/work use shall consist of a minimum of 1 and a maximum of 2 on-site spaces per lot. If the dwelling lot fronts on a street with on-street residential parking, each 20 feet of linear frontage may be substituted for 1 space.

The DSP proposes a total of 41 residential dwelling units. The minimum required parking spaces are 41, and maximum allowed parking spaces are 82. The applicant provides 82 on-site parking spaces, in conformance with this standard.

8. **2004 Approved Sector Plan and Sectional Map Amendment for the Prince George’s County Gateway Arts District and the standards of the Development District Overlay (D-D-O) Zone:** The Gateway Arts District Sector Plan and SMA defines long-range land use and development policies, detailed zoning changes, design standards, and a D-D-O Zone for the Gateway Arts District area. The land use concept of the sector plan divides the Gateway Arts District into seven interrelated areas for the purpose of examining issues and opportunities and formulating recommendations. Detailed recommendations are also provided for the seven distinct areas within the sector plan.

The subject site is located within the TRN, which calls for a development character that reinforces the existing single-family detached residential neighborhoods as calm, low-traffic, and child-safe. In order to achieve this land use vision, the Gateway Arts District Sector Plan and SMA prescribes D-D-O Zone standards under three categories of Site Design, Building Design, and Public Open Space that governs the development of the subject site.

Section 27-548.25(b) of the prior Zoning Ordinance requires that the Planning Board find that the site plan meets applicable development district standards. The applicant has submitted a

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statement of justification (SOJ) that provides a detailed explanation of how the proposed development conforms to each development district standard and, if not, why and what amendments are required.

The DSP meets most of the applicable standards, with the exception of five development district standards for which the applicant has requested amendments. In order to allow the plan to deviate from the development district standards, in accordance with Section 27-548.25(c) of the prior Zoning Ordinance, the Planning Board must find that the alternative development district standards will benefit the development and the development district and will not substantially impair implementation of the sector plan. The amendments that the applicant has requested are discussed below under the categories of standards.

SITE DESIGN

Building and Streetscape Siting

- 12. On properties zoned R-55, the minimum lot area for new dwellings shall be 5,000 square feet. Where the depth of the lot is less than 100 feet, the minimum net lot area shall be 4,800 square feet (page 146).**

The applicant is proposing a minimum size for these single-family attached (townhouse) lots of 1,752 square feet. DSP-18005 approved a minimum townhouse lot size of 1,400 square feet. In addition, the County has previously approved similar or smaller townhouse lot sizes in the close vicinity of this site, some as small as 1,000 square feet. Given the infill nature of this development, the proposed lot size will allow sufficient usable space and urban living within the established traditional neighborhood.

Therefore, the alternate lot size standard for single-family attached units will benefit the development and development district and will not substantially impair implementation of the sector plan. The architecture is commensurate in details and design to the neighborhood to further enhance compatibility. The Planning Board **approves** of this amendment.

- 16. The front yard shall not have more than 20 percent impervious surface and shall not include a paved area for parking between the dwelling and the street sidewalk (page 146).**

All of the proposed single-family attached lots meet this front yard impervious surface requirement, except for Lots 13–16 and 25–40, partially due to the front porches on every unit. The maximum area of impervious surface is 22.73 percent with no parking area between the dwelling and the street sidewalk. The City of Hyattsville indicated they are supportive of this amendment, as the proposed front porches provide a sense of place, eyes on the street, and are consistent with housing characteristics of existing homes within the historic district. For these reasons, the Planning Board supports this amendment because this slight increase will benefit the development and development

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district, and will not substantially impair implementation of the sector plan. The Planning Board **approves** of this amendment.

Siting and Access

6. Driveways or private drive-aisles shall have a maximum width of 12 feet (page 149).

In order to minimize parking spill-over into the existing neighborhood, as is common with infill projects, this DSP proposes two-car garages for every unit, and an alley system with 18-foot-wide driveways to access the garages. Given the fact that all wider driveways will be located interior to the site, this alternate standard will benefit the development and the development district by reducing parking spill-over into the existing neighborhood and will not substantially impair implementation of the sector plan. The Planning Board **approves** of this amendment.

Building Height

4. The maximum height of townhouse buildings shall be 45 feet (page 151).

6. The allowable height in R-55, R-35, and R-20 Zones shall be 3 stories or 35 feet. If an additional side yard of 1/2 foot is added per 1 foot of height in excess of 35 feet, the height may be increased to the maximum of 40 feet. Height shall be measured from the highest elevation on the front street side of the building to the highest main roof ridgeline or parapet (page 152).

Most of the proposed townhouses, which are in the R-55 Zone, do not exceed the 35-foot height limit from slab to roof, and none exceed the 45-foot height limit. However, per these standards, not all of the proposed townhouses meet these requirements when height is measured from the front street side of the building to the highest main roof ridgeline or parapet. Due to the site layout, topography, and stormwater issues, 18 units do not front a street directly and so most are higher than 35 feet, relative to the closest street. Given the fact that these lots are located interior to the site, this alternate standard will benefit the development and will not substantially impair implementation of the sector plan. The Planning Board **approves** of these amendments.

9. **Conceptual Site Plan CSP-18002:** The District Council approved remanded CSP-18002 on October 17, 2022, with three conditions. The conditions that are relevant to the review of this DSP are discussed as follows:

2. At the time of Detailed Site Plan, as required in PGCC § 27-548.26, Applicant shall:

- a. Provide evidence that impact to the floodplain has been approved by the authority having jurisdiction.**

In a letter dated September 27, 2018 (Hajazi to Freiland), the Prince George's

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County Department of Permitting, Inspections and Enforcement (DPIE) approved a floodplain waiver for this subject site. The DSP satisfies this condition.

b. Provide sidewalks on both sides of all internal streets, excluding alleys, as appropriate.

The adjacent public rights-of-way have sidewalks on them. One alley has been proposed through the site with no sidewalks, as permitted by this condition. Additional pedestrian paths have been provided from east to west through the site in between every stick of townhouses. The DSP meets the requirements of this condition.

3. Prior to issuance of any building permit, Applicant shall, pursuant to PGCC § 27-548.26, obtain approval of a Detailed Site Plan (DSP) for the entire 8.26 acres. The DSP shall be subject to all Development District Overlay (D-D-O) Zone standards applicable to the Traditional Residential Neighborhood Character Area. Additional bulk requirements shall be established with the approval of the DSP to implement the applicable goals and recommendations of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District*, to achieve context-sensitive, high-quality, single-family residential development.

The applicant filed DSP-18005 for the entire 8.26 acres, with development of the upper parcel and only infrastructure on this lower parcel. The subject DSP was filed for 41 dwelling units on the lower parcel, in accordance with this condition. The DSP has been reviewed for conformance with the applicable D-D-O Zone conditions, as discussed in the above Finding 8. The DSP meets all applicable D-D-O Zone standards, except for standards that the applicant has requested to be amended, in accordance with Section 27-548.25(c). The additional bulk requirements achieve a context-sensitive, high-quality, single-family development. The DSP satisfies this condition.

10. Preliminary Plan of Subdivision 4-21052: The Planning Board approved 4-21052, with 15 conditions (PGCPB Resolution No. 2022-75). The conditions that are relevant to the review of this DSP warrant the following discussion:

1. Prior to signature approval of the preliminary plan of subdivision (PPS), the plan shall be revised, as follows:

a. Relocate Alley 3 to extend from the dead end of Alley 2 to 40th Place and design the public alleys to meet Urban Street Design Standard STD 100.31, with a minimum 15-foot turning radius. If redesign of the alley is infeasible, as stated herein, the plans shall show the alleys as contained within private alley parcels, which shall conform to the Prince George's County design standards for emergency vehicles.

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PPS 4-21052 has been certified, and it was determined at the time of certification that the PPS conformed to the above-described street design standards. The relocation of Alley 3 consolidates it and Alley 2 into a single alley, and is shown on the DSP as Alley 2, in conformance with this condition. The alley will be dedicated to public use.

- b. Provide minimum 10-foot-wide open spaces on homeowners association parcels between Lots 6 and 7, 11 and 12, 17 and 18, 29 and 30, and 36 and 37. The precise locations of the open spaces may be altered if the positions of any lots are shifted, or any lots removed at the time of detailed site plan (DSP). At the time of DSP, the space between Lots 29 and 30 may be reduced to no less than 8 feet, if the applicant demonstrates that providing a space 10 feet wide is infeasible.**

The DSP shows 10-foot-wide open spaces in the locations specified. The DSP does not show any lots to have shifted position or been removed. The space between Lots 29 and 30 remains at 10 feet, in conformance with this condition.

- 2. A substantial revision to the proposed uses on-site, which affects Subtitle 24 adequacy findings, including any nonresidential development, shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.**

The proposed DSP does not include a substantial revision to the uses previously approved and does not affect Subtitle 24 adequacy findings for the site.

- 3. Development of this site shall be in conformance with approved Stormwater Management Concept Plan 10823-2018-00 and any subsequent revisions.**

A copy of the approved SWM concept plan and approval letter (10823-2018-00) was submitted with the DSP application. According to the approval letter, the SWM concept plan expires on March 22, 2025. There are some minor differences between the site layout shown on the concept plan and that shown on the DSP, specifically the position of the southern alley exit onto 40th Place. DPIE may require an amendment to the SWM concept plan prior to permitting.

- 4. Prior to approval, the final plat of subdivision shall include:**

- a. The granting of public utility easements along the public rights-of-way, excluding alleys.**

The DSP shows public utility easements (PUEs) consistent with those shown on PPS 4-21052. The PUEs are located along the site's full frontage on Gallatin Street and 40th Place, except for two locations where the PUEs were approved to

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be modified via a variation from Section 24-122(a) of the prior Prince George's County Subdivision Regulations. Per the variation approved with 4-21052, a PUE has been omitted in the northwest corner of the property, and a PUE has been moved away from the frontage line in the southeast corner.

- b. Any right-of-way dedication of the alley to public use, in accordance with the approved preliminary plan of subdivision.**

The DSP shows right-of-way dedication of the alley to public use, in accordance with the PPS.

- c. The delineation of a parcel or public use easement granted to the City of Hyattsville, if the detailed site plan reflects such a grant. If a public use easement is granted, it shall be approved by the City of Hyattsville and contain the rights thereof, be recorded in the Prince George's County Land Records, and the Liber/folio shown on the final plat, prior to recordation. If a public use easement is granted, it may be written so as to absolve the applicant and its successors in title of the liabilities associated with public use of the land.**

The DSP shows two parcels, Parcels C and D, to be conveyed to the City of Hyattsville. These parcels cover existing park facilities associated with the abutting Driskell Park. The DSP does not show any public use easements. However, at the City of Hyattsville City Council meeting on December 5, 2022, the City Council recommended that should the DSP be approved, the applicant shall dedicate a public use easement over Parcel B2, an open space parcel located adjacent to Driskell Park. Therefore, a condition is included herein requiring such.

- 5. Prior to approval of a detailed site plan for architecture, the applicant shall provide a plan for interpretive signage to be erected and public outreach measures for the Washington Suburban Sanitary Commission Headquarters (68-10-082) and the 1913 suffragist rally. The location and wording of the signage and the public outreach measures shall be subject to review and comment by the Historic Preservation Section. The plan shall include the timing for installation of the signage and implementation of public outreach measures.**

Updated material, received on November 28, 2022, included an exhibit for an installation called "The Suffrage Walk" in the architectural plan set. According to this exhibit, the installation will include a meandering path, conversational benches, plinths engraved with significant documents, and a "Remembrance Oak." The installation is to be located in the northwest corner of the property. However, the DSP plan set does not show any details of this installation. Neither the exhibit nor the applicant's SOJ include the timing for installation of the signage and implementation of public outreach measures.

Therefore, this condition must be further addressed prior to certification of the DSP, as

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conditioned herein.

7. **At the time of detailed site plan, the applicant shall determine whether there is to be any public use of the subject property. If there is to be any public use, the plans shall show either a parcel(s) to be conveyed to the City of Hyattsville, or a public use easement on homeowners association Parcel B2 to the benefit of the City of Hyattsville, in order to ensure the general public continues to have access to the park facilities on the parcel. If an easement is granted on Parcel B2, the parcel shall primarily serve to provide compensatory storage for the subject property, and the applicant shall determine which areas of the parcel may be used by the public. If no easement is granted or property conveyed for the existing park facilities, the park facilities on the subject site shall be shown to be removed or relocated.**

The DSP shows two parcels, Parcels C and D, to be conveyed to the City of Hyattsville for public use. Conveyance of these parcels will ensure that the existing park facilities therein will not need to be removed or relocated. The DSP does not show any public use easements. However, at the City of Hyattsville City Council meeting on December 5, 2022, the City Council recommended that should the DSP be approved, the applicant shall dedicate a public use easement over Parcel B2, an open space parcel located adjacent to Driskell Park. Therefore, a condition is included herein requiring such.

8. **Total development within the proposed preliminary plan of subdivision (PPS) shall be limited to uses which generate no more than 29 AM peak-hour trips and 33 PM peak-hour trips. Any development generating an impact greater than that identified herein shall require a new determination of the adequacy of transportation facilities and a new PPS.**

The Planning Board finds the subject DSP is consistent with the land use and development program that was considered as part of the approved PPS, and therefore, is within the peak-hour trip cap approved in PPS 4-21052.

9. **The applicant and the applicant's heirs, successors, and/or assignees shall provide and include details of the following, prior to acceptance of the detailed site plan:**
- a. **Shared roadway pavement markings along the property frontage of Gallatin Street and 40th Place, unless modified by the City of Hyattsville, with written correspondence.**
 - b. **Minimum five-foot-wide sidewalks along the frontages of Gallatin Street and 40th Place, unless modified by the City of Hyattsville, with written correspondence. Eight-foot-wide sidewalks shall be provided along Gallatin Street where feasible.**
 - c. **Minimum five-foot-wide sidewalk connections between Lots 6 and 7, 17 and**

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18, 29 and 30, 36 and 37, and adjacent to Lots 1 and 41 to create direct and continuous access from Gallatin Street and 40th Place to the townhomes located in the rear of the subdivision and to Parcel B2. The precise locations of the sidewalks may be altered if the positions of any lots are shifted, or any lots removed.

- d. Crosswalks across all vehicular and pedestrian crossing points, including alleys, in order to provide continuous pedestrian connections.**
- e. A sidewalk connection from 40th Place through the interior of the site to at least the western boundary of Parcel B2, in order to connect with any public uses proposed on or abutting the subject property. Connection of the sidewalk with such public uses shall be subject to approval by the City of Hyattsville.**

The latest site plan submission satisfies all conditions pertaining to shared roadway and sidewalk connections. In addition, crosswalks are also provided crossing both vehicular access points along Gallatin Street and 40th Place. Regarding Condition 9e, the DSP does not show any sidewalks connecting through the interior of the development to the western boundary of the abutting Driskell Park. At the City of Hyattsville City Council meeting on December 5, 2022, the City Council recommended that should the DSP be approved, such a connection be made. Therefore, a condition is included herein requiring such.

- 13. Prior to approval of a detailed site plan, the applicant shall demonstrate that adequate access for emergency personnel will be provided to every dwelling unit, either via the sidewalks required by Condition 9c above, or via the alleys. If emergency access is to be provided via the alleys, the building architecture submitted with the DSP shall include such access, which may be in the form of rear personnel doors.**

Per the Prince George's County Fire Department's comments, the alley has been revised to 22 feet wide pavement to qualify as a fire access road. They also indicated that a personnel door within 150 feet of a fire access road must be provided for each unit. The applicant responded that each unit has the option for a rear personnel door adjacent to the garage door, but it will be required for Lots 26, 27, 32, 33, and 34. A condition is included herein to ensure this is noted on the plan.

- 14. Prior to approval of the final plat, the 41 units proposed with this preliminary plan of subdivision shall not exceed the revised maximum net density to be approved by the Prince George's County District Council on the remand of Conceptual Site Plan CSP-18002, as required by the Court of Special Appeals order.**

As discussed in Finding 7 above, the proposed 41 units conform to the maximum net density approved by the District Council on the remand of CSP-18002.

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15. **Prior to acceptance of a detailed site plan, specifications for the light fixtures in the alleys shall be provided to the City of Hyattsville (if the alleys are to be publicly dedicated) and be included on the detailed site plan.**

The DSP plan set shows a detail for the light fixtures in the alley on Sheet 6. At the City of Hyattsville City Council meeting on December 5, 2022, the City Council recommended that lighting should be similar in design to that used in the upper block of the Suffrage Point development and should conform to the Potomac Electric Power Company (PEPCO) standards so that it may be accepted into the public utility system where appropriate. Prior to acceptance of the DSP, the applicant stated via email (Rivera to Fothergill, dated October 13, 2022) that the lighting specifications used in the alley would be consistent with the upper block. A condition is included herein, requiring this to be confirmed by the City prior to certification of the DSP.

11. **2010 Prince George's County Landscape Manual:** The D-D-O Zone includes development district standards that override all the requirements of the Zoning Ordinance. On page 142 of the Gateway Arts District Sector Plan and SMA, it states:

“The development district standards replace all those contained in the Zoning Ordinance and Landscape Manual except (1) where noted for parking provision, (2) properties zoned R-80 except with respect to accessory buildings containing an artist studio, (3) where noted for home occupation signage, and (4) where noted for signage size. If an aspect of the physical development of a project is not included in the development district standards, the character area goals and the intent statement of those standards most closely relating to that aspect shall apply.”

The subject site is located in the TRN character area. The following D-D-O Zone standards related to landscaping are applicable to this DSP.

SITE DESIGN

Landscaping

1. **Existing trees should be preserved where feasible (page 151).**

Because the property was previously a parking lot, there are few existing trees on this lower parcel that have been preserved, where feasible.

2. **Shade trees with a minimum of 2.5- to 3-inch caliper shall be provided at the rate of one shade tree per every 5,000 square feet of the gross site area (exclusive of street dedications). Existing trees and street trees to be planted within the abutting right-of way may be counted toward meeting this standard.**

This standard requires 37 shade trees, and 108 are proposed on the site.

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PUBLIC OPEN SPACE

Parks and Plazas

- 1. At least one tree with a minimum 2.5- to 3-inch caliper should be planted per every 1,000 square feet of proposed open space.**

This standard requires 25 shade trees which have been provided on the site.

- 3. A minimum of 1 shrub should be provided for every 100 square feet of area, and there should be a minimum of 3 varieties for spaces greater than 300 square feet.**

This standard requires 250 shrubs, in 5 different varieties, which have been provided on the site.

In addition, landscaping based on the 2010 *Prince George's County Landscape Manual*, requirements of Section 4.1, Residential Requirements, have been provided on the site as required for townhouses. Moreover, the requirements of Section 4.9, Sustainable Landscaping Requirements, have been exceeded as the landscape plan shows that 100 percent of the provided shade trees, evergreen trees, ornamental trees, and shrubs are native species.

- 12. Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The site is exempt from the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the site has less than 10,000 square feet of woodland on-site and no previously approved tree conservation plans. A standard letter of exemption from the WCO was issued for this site (S-193-2020), which expires on December 15, 2022. At the time of the writing of this referral, that woodland conservation exemption letter was valid. Prior to certification of the DSP, a valid exemption letter is required.

The site has an approved natural resources inventory plan (NRI-047-2018) that covers a larger area than the DSP application. This DSP is comprised of the same land area as PPS 4-21052. This area was almost entirely covered by an existing parking lot, which has recently been removed. Small areas of open grown trees and existing landscaping are located along the southern and western property boundaries. This site slopes to the south toward an off-site stream system. No woodlands or specimen/champion/historic trees exist on-site within the application area. Regulated environmental features, such as stream buffer, wetland, and wetland buffer exist on-site. Primary management area existing on-site is comprised of these regulated environmental features and the 100-year floodplain.

- 13. Prince George's County 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 a grading permit. The subject site is in the R-55 Zone, which requires 15 percent of the site be covered in tree canopy. The lower parcel, where the development is located, measures 4.66 acres, and 0.70 acre (30,448 square feet) of TCC is required. A TCC

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schedule has been provided with this DSP that shows 30,600 square feet of canopy being provided in proposed landscape trees in conformance with this requirement.

14. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The Planning Board has reviewed and adopts referral comments that are incorporated herein by reference and summarized, as follows:

- a. **Community Planning**—In a memorandum dated December 2, 2022 (Green to Kosack), it was noted that the Gateway Arts District Sector Plan and SMA retained the portion of the subject property between Hamilton and Gallatin Streets in the R-55 Zone, but reclassified the former parking lot portion of the property between 40th Avenue and 40th Place from the R-55 Zone to the O-S Zone, noting “Rezoning to O-S creates the opportunity to expand parkland and reinforce the vision of the traditional residential neighborhood character area” (page 123). The SMA further superimposed the D-D-O Zone, placing the entire property in the TRN character area. Note that R-55-zoned properties in the TRN character area within the incorporated City of Hyattsville are exempt from the development district standards and abide by the requirements of the R-55 Zone (page 144). The TRN goals and recommendations are still applicable, however, regardless of the zone.

The memorandum listed six amendments that the applicant requested. Detailed discussion of these amendments has been provided in Finding 8 of this resolution. However, one amendment to a standard relative to sidewalk width is not necessary, as it does not apply to the lead walks on the individual lots. The lead walks on the DSP conform to the applicable Standard 23 on page 147.

In conclusion, the Planning Board finds that, pursuant to Section 27-548.25(c), this applicant requests development standards which differ from the development district standards of the Gateway Arts District Sector Plan and SMA that will benefit the development and will not substantially impair implementation of the sector plan. One condition related to architectural design is included herein.

- b. **Transportation Planning**—In a memorandum dated November 29, 2022 (Smith to Kosack), a discussion of prior approvals was provided and incorporated into findings above, as well as the following summarized comments:

The subject site has frontage along Gallatin Street and 40th Place. Per the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), neither roadway is identified as master-planned facilities nor within a transportation corridor or center. The latest site plan submission includes shared road pavement markings and continuous sidewalk along the property frontage and convenient sidewalk connections throughout the site, including crosswalks to the adjacent parcels. The proposed infrastructure meets the intent of the MPOT and area master plans.

The Planning Board finds that the application meets the findings required by the prior

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Subtitle 27 for a site plan for transportation purposes and conforms to the MPOT and the Gateway Arts District Sector Plan and SMA.

- c. **Historic Preservation**—In a memorandum dated December 13, 2022 (Stabler to Kosack), a brief summary of the history of the property was provided, which indicated that there are no Prince George’s County historic sites or resources on or adjacent to the subject property. The Planning Board finds that if interpretive signage is provided to address the history of the suffragist rally and the Washington Suburban Sanitary Commission (WSSC) building, the project will support the goals and objectives of the Historic Preservation section of the sector plan. The applicant should provide interpretive signage in one of the open space areas that details the history of the WSSC building that was located on an adjoining parcel and the Suffragist rally. A condition is included herein, relative to this issue.

The area beneath the parking lot was shown in previous applications to have been disturbed by construction of a sewer line, a gas line, and a drainage channel running through various portions of the subject site. The installation of these utilities has likely disturbed any intact archeological resources that may have been present. Therefore, a Phase I archeology survey was not recommended.

- d. **Subdivision**—In a memorandum dated December 6, 2022 (Campbell to Kosack), an analysis of the DSP’s conformance with PPS 4-21052 was provided, which is incorporated into the findings above. They also indicated that prior to approval of any permits on the subject property, the property must be platted consistent with the lotting pattern approved with this DSP.
- e. **Environmental Planning**—In a memorandum dated December 5, 2022, (Juba to Kosack), an analysis of the DSP was provided and the relevant comments are included in the findings herein or are summarized, as follows:

Stormwater Management/Unsafe Soils

Marlboro clay has not been identified on or within the immediate vicinity of this property; however, unsafe soils containing Christiana complexes have been mapped across the eastern half of the site. These soils have been previously disturbed and should not pose an issue to the proposed development because no critical slopes that would cause significant damage or cost are anticipated. No conditions of approval relating to unsafe soils were provided by DPIE relating to the approval of SWM Concept Letter 10823-2018-00. Correspondence from DPIE demonstrating conformance with Section 24-131 of the prior Subdivision Regulations for unsafe soils is not required at this time and no further action is needed as it relates to this application. The County may require a soils report in conformance with Prince George’s County Council Bill CB-94-2004 during future phases of development and/or at the time of permit.

An approved SWM concept letter and plan (10823-2018-00) was submitted with this application, which expires on March 22, 2025. Within the area of this DSP application,

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the approved SWM concept plan shows the use of four proposed micro-bioretenention stormwater devices, a SWM outfall, and other cut and fill grading operations to establish proposed lots, roads, and associated infrastructure on-site. A floodplain fill waiver from DPIE, dated September 27, 2018 (36721-2018), has been granted for these improvements.

The Planning Board approves DSP-21001, with environmental conditions that have been included herein.

- f. **Permit Review**—In a memorandum dated November 10, 2022 (Meneely to Kosack), it was noted there are no permit-related comments on the DSP.
- g. **Prince George’s County Department of Parks and Recreation (DPR)**—In an email dated December 9, 2022 (Thompson to Kosack), DPR indicated that they reviewed and evaluated the DSP for conformance with the requirements of PPS 4-21052, as they pertain to public parks and recreation. Condition 6 of PGCPB Resolution No. 2022-75 requires payment of a fee-in-lieu for Service Area 2. DPR has no additional comments.
- h. **City of Hyattsville**—In a letter dated December 7, 2022 (Interim Mayor Croslin to Chairman Shapiro), the Hyattsville City Council indicated that they voted in opposition to the applicant’s DSP and requests the Planning Board deny the application. As expressed in previous correspondence and oral testimony, the City of Hyattsville has, and continues to be, in firm opposition to this development. In 2018, the Hyattsville City Council voted in opposition to the parent case for this development, CSP-18002, which enabled the rezoning of the lower parcel from the O-S Zone to R-55 Zone. If the Planning Board proceeds to approve this application, the City Council requests six revisions, which the applicant has agreed to, as follows:

- (1) The site plan be revised to provide a pedestrian connection to the abutting property, Driskell Park, from the site at Parcel D be made to ensure pedestrian connectivity is achieved between the two sites, as conditioned in 9e of the PPS, and that DSPs include crosswalks, or other mechanisms to enhance pedestrian visibility, where pedestrian infrastructure crosses vehicular infrastructure throughout the site.

A condition is included herein, requiring the pedestrian connection to the Driskell Park property per the City’s exhibit. The Planning Board has reviewed the DSP and finds that sufficient crosswalks have been provided throughout the site.

- (2) The applicant be required to coordinate with Historic Preservation Section of Park and Planning regarding the timing for installation of signage and implementation of public outreach measures for the Suffrage Walk.

A condition is included herein, requiring further coordination and approval, prior to certification of the DSP. The applicant submitted an exhibit, but the Planning Board does

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not find it sufficient and requires continued work, relative to the signage design.

- (3) The applicant dedicate Parcels C and D to the City of Hyattsville for the purposes of maintaining access to existing park structures and to allow additional space for intersection improvements at Gallatin Street and the entrance to Driskell Park, and that Parcel B2 be dedicated as a Public Use Easement, in which the applicant shall maintain ownership of Parcel B2, but access of the parcel shall be granted to the general public. Parcel B2 shall primarily serve to provide compensatory storage for the subject parcel, but shall be used by the public, and permitted at the City's discretion, under a separate Memorandum of Understanding (MOU).

The applicant will dedicate Parcels C and D to the City of Hyattsville, as shown on the DSP, for the purposes of maintaining access to existing park structures and to allow additional space for intersection improvements at Gallatin Street and the entrance to Driskell Park. The applicant agreed that Parcel B2 will be dedicated as a public use easement, in which the applicant shall maintain ownership of Parcel B2, but access of the parcel shall be granted to the general public. Parcel B2 shall primarily serve to provide compensatory storage for the subject parcel, but shall be used by the public and permitted at the City's discretion, under a separate memorandum of understanding which shall provide for maintenance of Parcel B2 by the homeowners association or other agreed-upon party. The Planning Board did not condition the easement, as this will be a private agreement between the City and the applicant.

- (4) The applicant revise the site plan to include additional lighting throughout the site including low voltage and low to the ground lighting along all pathways between houses and appropriate lighting be affixed to the front and back façade of all residential dwelling units to provide additional visibility at entrances and exits to dwellings and along pathways. Exterior lighting should be similar in design to that used in the Suffrage Point upper site conform to PEPCO standards so that it may be accepted into the public utility system where appropriate.

Conditions have been included herein requiring the lighting to be revised as stated, excluding low voltage and low to the ground lighting, and reviewed by the City prior to certification of the DSP.

- (5) The City is supportive of the applicant's request for a variance to the D-D-O Zone standard to support deeper front porches, as the percentage is within five percent of requirements and is consistent with variances supported by the City for previous applications. Front porches as proposed in this application provide a sense of place, eyes on the street, and is consistent with housing characteristics of existing homes within the Historic District.

As discussed in Finding 8 above, the Planning Board approves of the requested amendment to the D-D-O Zone standard.

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- (6) The applicant revise the site plan to provide additional plantings within the compensatory storage parcel. Landscape plantings shall be limited to native species and specifically those which survive sustained periods of inundation such as rush, panicum, swamp milkweed, and Joe Pye or shrubs like Itea, silky dogwood, and winterberry holly.

Relative to this issue, the applicant may provide substitute native landscape plantings within the parcels being conveyed to the City, to include relocating plantings within the boundaries of Driskell Park at locations determined by the City. Therefore, a condition relative to this has been included herein.

- i. **Prince George's County Police Department**—The Police Department did not offer comments on the subject application.
- j. **Prince George's County Fire Department**—In an email dated October 25, 2022 (Reilly to Kosack), the Fire Department provided comments relative to the necessary alley width and proximity to a personnel door on each unit. The DSP was revised to provide the required alley width and a condition is included herein, relative to the lots that require a rear personnel door to ensure emergency access.
- k. **Prince George's County Health Department**—In a memorandum dated November 3, 2022 (Adepoju to Kosack), the Health Department provided comments that have been transmitted to the applicant. The subject site is located within the established area of the County and is close to numerous service and retail facilities, including grocery stores and restaurants. The site plan also demonstrates pedestrian connections to the neighboring communities, especially Driskell Park located southwest of the site. Notes regarding dust and noise impacts during demolition/construction have been added to the plan.
- l. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated December 15, 2022 (Giles to Kosack), DPIE provided comments that the DSP is consistent with Site Development Concept Plan 10823-2018-0, traffic-related comments are deferred to the City of Hyattsville, and the applicant is required to secure necessary permits before impacts to the floodplain can be constructed.
15. Based on the foregoing, and as required by Section 27-285(b)(1) of the prior Zoning Ordinance, the Planning Board finds that this DSP will, if approved with conditions, represent a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.
16. As required by Section 27-285(b)(2) of the prior Zoning Ordinance, the Planning Board finds that this DSP is in general conformance with the approved CSP-18002.
17. Section 27-285(b)(3) is inapplicable to this application. Section 27-285(b)(4) of the prior Zoning Ordinance provides the following required finding for approval of a DSP:

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- (4) **The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirement of Section 24-130(b)(5).**

Impacts to regulated environmental features on this DSP are consistent with those previously approved by the Planning Board with PPS 4-21052. Therefore, the Planning Board finds that the regulated environmental features will continue to be preserved and/or restored in a natural state, to the fullest extent possible.

18. **Originally Scheduled Planning Board Hearing of January 5, 2023:** The Planning Board did not hold a public hearing for the DSP on January 5, 2023. Instead, the City of Hyattsville requested a continuance of the case to January 12, 2023, to allow impacted residents, interested parties, and parties of record to have adequate time to digest and respond to the case information that was published just prior to the holiday season. The applicant agreed and the Planning Board granted the request for continuance.
19. **Planning Board Hearing of January 12, 2023:** At the hearing held on January 12, 2023, the Planning Board heard testimony from the applicant in favor of the application, testimony from citizens opposed to the application, and testimony from the City of Hyattsville.

The City offered written and oral testimony conveying its opposition to the application. Citizens provided a combination of written and oral testimony, including visual evidence, and raised issues concerning the appropriateness of the density proposed for the development; opposition to building in the floodplain; concerns about the development's environmental effect on Driskell Park; concerns about whether the applicant obtained appropriate permits for demolition and construction work on the site; concerns about the length of time given for opposition testimony and limitations on providing written testimony; and concerns about violations and enforcement of regulations, relative to construction activity on the property.

At the conclusion of the public hearing, the Board voted to continue the case to February 2, 2023, to allow for more gathering of information relative to the limited scope of stormwater permitting and enforcement violations. The Board expressed that, at the February 2, 2023 hearing, deliberation and testimony should be limited to these issues.

20. **Planning Board Hearing of February 2, 2023:** Following the Planning Board's action on January 12, 2023, the Board reconvened for a limited public hearing to discuss specific issues relative to stormwater permitting and enforcement violations. Staff presented a summation of information obtained from DPIE, Permit Review Section staff, and the Maryland Department of the Environment (MDE) regarding records relative to the permitting, inspections, and enforcement issues on the property. The Board considered additional evidence and testimony received into the record to reach the findings and conclusions memorialized in this resolution on the specific issues under discussion.

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Regarding opponents arguments, violations and enforcement relative to SWM, erosion and sediment control, and permits are controlled by DPIE, MDE, and other state and federal agencies, as appropriate. The majority of compliance issues on this property have had to do with permitting and construction activities, such as fill removal, stabilization, and removal of debris, which are not shown on nor governed by the DSP. Furthermore, the Planning Board is not the enforcement agency for any of those activities. As a result, the Board did not find the additional documentation of SWM permitting and enforcement violations relative to the findings necessary for approval of a DSP. In response to the citizens and City's concerns, the applicant proffered multiple conditions, included herein, relative to their future efforts to ensure that construction of the site remains in conformance with all regulations, going forward.

Regarding opponents' arguments concerning the length of time given for opposition testimony and limitations on providing written testimony, the Planning Board notes that opponents were allowed to submit more than 2,000 documents, as well as 21.9 GB of visual evidence, over the course of the hearings, a significant majority of which was repetitive or irrelevant to the Planning Board's review of DSP-21001. The Board accepted and reviewed all such evidence and did not deem any of it inadmissible. In addition to all required notices being provided as required by law, the Board allowed every individual, seeking to speak, the opportunity to provide oral testimony, even if such individual previously provided written testimony. Because of the number of speakers in opposition, opponents were granted more time than the applicant to present their case and provided the opportunity to conduct reasonable cross examination. The Board continued the January 5, 2023 hearing for one week, at the request of the opponents, and extended the hearing a second time to February 2, 2023 to consider additional issues addressed by opponents. The Planning Board, therefore, finds opponents were given appropriate and reasonable opportunity to submit evidence and provide oral testimony.

The Planning Board also notes that the density proposed by DSP-21001 meets the required maximum density approved by CSP-18002, which is in effect as of the date of this resolution. The Board also reviewed the waiver issues for development in the floodplain and found it acceptable, considered concerns about the development's environmental effect on Driskell Park, found that the evidence in the record did not show the development would have any such impacts, and noted that demolition and construction permits were under the jurisdiction of the County and not issues applicable to approval of a site design plan.

†21. **Remand Findings:** The Order of Remand was issued on May 11, 2023. Within the Order of Remand, the District Council directed the Planning Board to reopen the record and take further testimony or evidence on five specific issues. Upon consideration of all testimony and evidence presented at the remand hearing on November 2, 2023, the Planning Board made the additional findings and conclusions, with respect to the five issues that were the subject of the Order of Remand, as follows:

- 1. Allow the Applicant to withdraw the site plan since DPIE is not allowed to grant a waiver for any filling or the construction or placement of any structures or obstructions ultimately located in the FEMA-designated floodways. PGCC § 32-206(e).**

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The applicant has chosen to proceed with Alternative No. 2 below and not withdraw the site plan application.

- 2. In the alternative, allow the Applicant to submit a revised site plan, which shall include a new application request to DPIE for a waiver to construct in the 100-year floodplain that complies with the requirements in PGCC § 32-206, as amended by CB-38-2016.**

Upon receipt of the District Council's Order of Remand, DPIE reevaluated the floodplain waiver to construct in the 100-year floodplain, as required by this point. The waiver was reapproved and relative documents were submitted by the applicant into the record.

- 3. Any revised site plan submitted by the Applicant shall contain a new decision from DPIE on the Applicant's new application request for a waiver to construct in the 100-year floodplain. DPIE's new decision on the Applicant's waiver request shall make all required findings and considerations in PGCC § 32- 206(d) and (j), as amended by CB-38-2016. DPIE's findings and considerations shall include, but are not limited to, whether a waiver can be granted for any filling or the construction or placement of any structures or obstructions ultimately located in the FEMA-designated floodways. PGCC § 32-206(e).**

The applicant submitted a revised floodplain waiver letter, dated July 25, 2023, as well as a response from DPIE, dated July 25, 2023 (Abraham to Dernoga), to the District Council, as to the Remand Order. Per these letters, DPIE's new decision made all required findings and considerations in PGCC § 32-206(d) and (j), as amended by Prince George's County Council Bill CB-38-2016, and found that there will be no homes constructed within the 100-year floodplain and no construction in a FEMA-designated floodway. In addition, DPIE noted that the original floodplain waiver was based upon the current Prince George's County Code, but due to a clerical error, an outdated excerpt of the Code was attached. No revision to the site plan is required to comply with the revised floodplain waiver letter.

- 4. Any revised site plan submitted by the Applicant shall include evidence of all Federal and State permits required to commence with any development of the proposed project.**

The applicant submitted evidence that the project has received all required federal and state permits to date. The applicant also submitted documentation of all inspections, indicating no on-site work violations. They also provided documentation from MDE (Seiger to Granzow, March 7, 2022), that the required nontidal wetland and waterway authorization and a general permit for the discharge of construction stormwater can only be issued following DSP approval, as required by MDE regulations. Upon review of this, DPIE indicated that they will not issue new grading or building permits for the floodplain portion of this property, until the developer secures the required MDE permit. Therefore,

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the Planning Board finds that the applicant has submitted evidence that it has obtained all federal and state permits it is entitled to obtain at the time of DSP and evidence that future permits will be issued, following approval of the DSP.

5. Any revised site plan submitted by the Applicant shall include a density calculation worksheet documenting and explaining the net lot acreage or net tract acreage of the lower parcel that is subject to be developed after excluding any land in the 100-year floodplain, and after excluding any alleys, streets, or other public roadways or land that has been dedicated, donated, conveyed or proposed to be dedicated, donated or conveyed out of the tract.

Pursuant to Conceptual Site Plan CSP-18002, the District Council approved 41 lots for townhouse uses on the subject property and this DSP depicts 41 lots for townhouse uses. Therefore, the DSP conforms to the CSP, as required by Section 27-285(b)(2) of the prior Zoning Ordinance, with regard to the number of approved lots and approved uses.

At the time the Planning Board approved DSP-21001, density was calculated as follows:

- Gross acreage (4.66) minus the proposed 100-year floodplain (1.29 acres) = 3.37 net acres.
- Proposed 41 dwelling units divided by 3.37 net acres = 12.17 dwellings units per net acre.

Per the Remand Order, the applicant is required to submit a density calculation worksheet documenting and explaining the net lot acreage or net tract acreage of the lower parcel that is subject to be developed. The applicant submitted a memorandum, dated September 27, 2023 (Rivera to Kosack), which included a density calculation and explanation of how the net tract acreage is calculated, only excluding the 100-year floodplain. This document states that the density, based on the net tract acreage, is 12.17 dwelling units per acres. The applicant's formula is the same as the formula used in approving DSP-21001.

The Planning Board finds that the applicant's calculation complies with the direction of the Appellate Court that density be calculated as the "number of dwelling units per net acre of net lot or tract area." Net tract area is defined by the prior Zoning Ordinance as the gross tract area "minus all land which: (i) Lies within a 'One Hundred (100) Year Floodplain'; and (ii) Has been dedicated, donated, or otherwise conveyed out of the tract." The applicant subtracted the acreage of the 100-year floodplain, as confirmed by DPIE, and has not dedicated, donated, or otherwise conveyed out any property from the tract, at the time of this DSP.

†22. Planning Board Hearing of November 2, 2023: At the remand hearing held on November 2, 2023, the Planning Board heard testimony from the applicant in favor of the application, testimony from citizens opposed to the application, and testimony from the City of

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Hyattsville and DPIE.

Prior to the November 2, 2023 public hearing, the Board received numerous exhibits from the opponents. These exhibits include multiple emails and letters, which discussed concerns relative to the housing density and environmental issues. They also expressed concern about DSP-21001 proceeding, while there were challenges to previous approvals in State court. The density issue was addressed by the response to Remand Point 5 above, and the floodplain and permit issues were addressed by the response to Remand Points 3 and 4 above. Relative to the prior approvals being challenged in court, there is no stay or requirement for the DSP to not proceed. Comments were also made relative to the access of application documents; all necessary documents were published as back-up for this hearing or made available to the opponents, as required by State and County code.

The applicant sought to submit an additional exhibit, including a letter dated October 26, 2023 and various attachments relative to inspections and site conditions, but requested this be stricken from the record prior to the hearing.

The applicant presented a summary of their submitted documents, in response to the remand points. They indicated that many of the opponents' arguments and points were outside of the limits of the remand or outside of the limits of the requirements for approval of a DSP. They also responded to questions from the opponents and Board members, relative to permitting and next steps in construction.

The opponents cross-examined staff and the applicant relative to the slides in the PowerPoint, the submitted floodplain waiver package, the status of necessary permits, and whether the floodplain waiver took into account recent climate and precipitation data.

The DPIE representative, Mary Giles, Associate Director of the Site Road Plan Review Division, answered questions relative to the floodplain waiver letter, previous violations, coordination with MDE, and the future order of events relative to construction on the property. She also indicated that the floodplain waiver is based on the 2016 FEMA floodplain maps and that the State and all counties in Maryland are actively participating in a study, relative to climate change and considering updates to codes and criteria to account for its impacts.

The City representative indicated their opposition to the application and questioned whether the revised floodplain waiver sufficiently addressed the required findings. It was pointed out that DPIE's letter, dated July 25, 2023, addressed Section 32-206(d) and (j), as required by the Order of Remand.

The Board's Legal Counsel summed up the density issue with a discussion of the Circuit Court's remand of CSP-18002, relative definitions of density, and the applicant's ability to use net lot or net tract area in the calculation.

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

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Planning Commission adopted the findings contained herein and:

- A. APPROVED amendments to the Development District Overlay (D-D-O) Zone standards, as follows:
1. **Site Design, Building and Streetscape Siting, Standard 12** (page 146): To allow the townhouse lots to be a minimum of 1,752 square feet.
 2. **Site Design, Building and Streetscape Siting, Standard 16** (page 146): To allow the townhouse lots to exceed the maximum allowed 20 percent front yard impervious surface area, as shown on the site plan.
 3. **Site Design, Siting and Access, Standard 6** (page 149): To allow driveways or private drive aisles to be a maximum of 18 feet wide, instead of the required 12 feet.
 4. **Building Design, Building Height, Standard 4** (page 151): To allow building heights as shown on the site plan and architectural elevations.
 5. **Building Design, Building Height, Standard 6** (page 152): To allow building heights as shown on the site plan and architectural elevations.
- B. APPROVED Detailed Site Plan DSP-21001 for the above-described land, subject to the following conditions
1. Prior to certification, the detailed site plan (DSP) shall be revised, or additional information shall be provided, as follows:
 - a. Revise General Note 23 to remove reference to Section 27-544(c)(2) of the prior Prince George's County Zoning Ordinance.
 - b. Include a minimum of five different front architectural elevations that offer a variety of architectural details, building materials, and colors, in a balanced fenestration consistent with the Victorian and craftsmen-style homes that are common in the existing residences of the Traditional Residential Neighborhood Character Area of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District*. This is to be reviewed by the Urban Design Section, as designee of the Prince George's County Planning Board, in coordination with the Community Planning Section.
 - c. Submit a valid woodland conservation exemption letter.
 - d. Revise the DSP, to distinguish on the legend and each plan sheet, the proposed versus existing 100-year floodplain and primary management area.
 - e. Provide the following architecture-related and general plan notes:

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“All highly-visible single-family attached (townhouse) end units shall have, at a minimum, the water table or first floor finished with brick, or other masonry, with a minimum of three architectural features in a balanced and harmonious composition.”

“A rear personnel door, adjacent to the garage door, is required for Lots 26, 27, 32, 33, and 34.”

- f. Revise the site plan to provide a sidewalk connection to the abutting property, Driskell Park, at Parcel D from the site, as shown on the City of Hyattsville exhibit entitled “City of Hyattsville Condition 1 Exhibit General location of pedestrian connection from site to abutting property (Driskell Park), shown in purple,” to ensure that pedestrian connectivity is achieved between the two sites.
 - g. Provide a plan for interpretive signage to be erected and public outreach measures to be undertaken to commemorate the site of the Washington Suburban Sanitary Commission Headquarters (68-10-082) and the site of the 1913 Suffragist rally. The location and wording of signage and the public outreach measures submitted by the applicant shall be subject to review and approval by the Prince George’s County Planning Board or its designee. The plan shall include the design, content, and timing for the installation of the signage, and the implementation of public outreach measures shall occur prior to issuance of the final building permit for the development.
 - h. Confirm that lighting is similar in design to that used in the upper block of the Suffrage Point development and conforms to the Potomac Electric Power Company standards, so that it may be accepted into the public utility system where appropriate. This is to be reviewed by the Urban Design Section, as designee of the Prince George’s County Planning Board, in coordination with the City of Hyattsville.
 - i. Revise the site plan to include additional lighting throughout the site, along all pathways between houses, and appropriate lighting be affixed to the front and back façade of all residential dwelling units to provide additional visibility at entrances and exits to dwellings and along pathways. This is to be reviewed by the Urban Design Section, as designee of the Prince George’s County Planning Board, in coordination with the City of Hyattsville.
2. The applicant may provide substitution landscape plantings within the parcels being conveyed to the City of Hyattsville, to include relocating plantings within the boundaries of Driskell Park at locations determined by the City. Landscape plantings shall be limited to native species and specifically those which survive sustained periods of inundation, such as rush, panicum, swamp milkweed, and Joe Pye, or shrubs like Itea, silky dogwood, and winterberry holly, and approved by the City.

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3. The applicant shall provide notice to purchasers of a lot that there was floodplain present, pursuant to ~~†[Condition 11]~~ Condition 12 of the approved Floodplain Compensatory Storage Waiver: *“Per the County Code Section 32-206(h), “as a condition of the waiver the owner of the property being developed shall be required to execute covenants to provide notice of the waiver the potential for higher insurance premium rates commensurate with the increased risk (with rates up to \$25 per \$100 of insurance coverage) the flood hazard and any responsibilities of the owner to maintain flood proofing or stream modification facilities or systems which covenants shall be recorded among the Land Records of the County.”*
4. The applicant shall provide security lighting in the alley, with details included, prior to certificate approval of the detailed site plan.
5. Prior to commencing permitted work on the lower parcel, the applicant will, in coordination with Prince George’s County Department of Permitting, Inspections and Enforcement grading inspectors and Maryland Department of the Environment compliance inspectors, complete an on-site inspection and review of all approved erosion and sediment controls, as well as stormwater protection systems and devices, to ensure they are properly installed and functioning, as designed. The applicant will increase, modify, or revise these controls, systems, and devices, per the direction of County and state inspectors.
6. For all locations that are in close proximity to the stream and stormwater outfall(s), a second row of super silt fence will be installed for added protection from any incidental sediment runoff.
7. The applicant will continue providing on-site personnel during all significant rain events to immediately identify and address any erosion and sediment control protection failures. This commitment will be made for rain events, regardless of time of day, and continue until final stabilization and grading permit(s) are closed by both the Prince George’s County Department of Permitting, Inspections and Enforcement and the Maryland Department of the Environment.
8. The applicant will continue to provide water testing by a certified geotechnical company at the City of Hyattsville’s stormwater outfall located within the lower parcel. The testing will be done both weekly and after rain events, in accordance with County and state regulations. This water quality report will be made available to the Prince George’s County Department of Permitting, Inspections and Enforcement and the Maryland Department of the Environment inspection authorities.

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, and Shapiro voting in favor of the motion, with Commissioner Doerner opposing the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, February 2, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of March 2023.

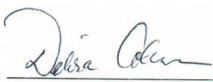
†This is to certify that the foregoing is a true and correct copy of the remand action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, and Shapiro voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, November 2, 2023, in Upper Marlboro, Maryland. The adoption of this amended resolution based on the remand action taken does not extend the validity period.

†Adopted by the Prince George's County Planning Board this 30th day of November 2023.

Peter A. Shapiro
Chairman

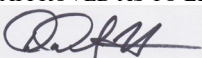

By Jessica Jones
Planning Board Administrator

PAS:JJ:JK:rpg


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel

Dated 2/28/23

APPROVED AS TO LEGAL SUFFICIENCY


David S. Warner
M-NCPPC Legal Department
Date: November 21, 2023

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