



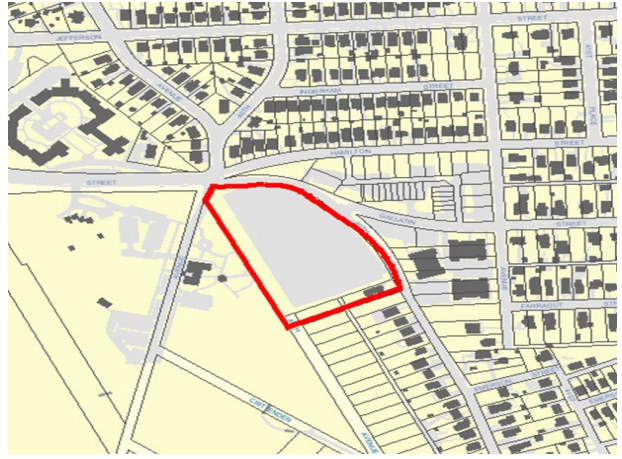
The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

Note: Staff reports can be accessed at <https://www.mncppc.org/883/Watch-Meetings>

Detailed Site Plan Remand Hearing Suffrage Point

DSP-21001

REQUEST		STAFF RECOMMENDATION	
This case was continued from the Planning Board hearing date of October 5, 2023 to November 2, 2023.		With the conditions recommended herein:	
Remand Hearing		•Approval of Detailed Site Plan DSP-21001	

Location: On the west side of 40th Place, at its intersection with Gallatin Street.			
Gross Acreage:	4.66		
Zone:	RSF-65		
Prior Zone:	R-55 and D-D-O		
Reviewed per prior Zoning Ordinance:	Section 27-1704(b)		
Dwelling Units:	41		
Gross Floor Area:	N/A		
Planning Area:	68		
Council District:	02		
Municipality:	Hyattsville		
Applicant/Address: Werrlein WSSC, LLC 522 Defense Highway Annapolis, MD 21401		Planning Board Date:	11/02/2023
Staff Reviewer: Jill Kosack Phone Number: 301-952-4689 Email: Jill.Kosack@ppd.mncppc.org		Planning Board Action Limit:	N/A
		Staff Report Date:	10/17/2023
		Date Accepted:	10/24/2022
		Informational Mailing:	11/18/2021
		Acceptance Mailing:	10/19/2022
		Sign Posting Deadline:	09/05/2023

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at http://www.mncppcapps.org/planning/Person_of_Record/. Please call 301-952-3530 for additional information.

October 17, 2023

MEMORANDUM

TO: The Prince George's County Planning Board

VIA: *ALD* Andrea Dorlester, Supervisor, Urban Design Section
Development Review Division

FROM: Jill Kosack, Planner IV, Urban Design Section *JK*
Development Review Division

SUBJECT: **Detailed Site Plan DSP-21001 (Remanded)**
Suffrage Point

BACKGROUND

Detailed Site Plan DSP-21001, Suffrage Point, for the development of 41 single-family attached (townhouse) dwelling units on a 4.66-acre property, in the Residential, Single-Family-65 Zone, was approved by the Prince George's County Planning Board on February 2, 2023, and a final resolution (PGCPB Resolution No. 2023-15) was adopted on March 2, 2023. The Prince George's County District Council elected to review this application on March 13, 2023. The District Council conducted oral arguments on May 8, 2023, and the Order of Remand was issued on May 11, 2023.

The Order of Remand found the Planning Board's decision was based on three legal errors: (1) reliance on an invalid floodplain waiver from the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE); (2) because the waiver was invalid, there was not sufficient evidence to support the Planning Board's finding that the applicant provided sufficient evidence that impact to the floodplain has been approved by DPIE; and (3) the record lacked substantial evidence to support a finding that 41 proposed single-family attached (townhouse) dwelling units complied with the maximum permitted density for the subject property.

To address these legal errors, the District Council directed the Planning Board to reopen the record of DSP-21001 and accept additional testimony and evidence, as directed below. The applicant submitted a package of responses and exhibits to the Prince George's County Planning Department on August 7, 2023. The subject property was posted on September 5, 2023, for a public

hearing on October 5, 2023. At the hearing on October 5, 2023, the Planning Board voted to continue the hearing date from October 5, 2023 to November 2, 2023.

ORDER OF REMAND FINDINGS

The Order of Remand was mailed out to all parties of record on May 16, 2023. Within the Order of Remand, the District Council ordered the Planning Board to reopen the record and take further testimony or evidence on five specific issues (in **BOLD**, followed by staff's analysis), 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).**

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 the Maryland Department of the Environment (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.

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.**

Conceptual Site Plan CSP-18002 approved 41 lots on the subject property, and this DSP conforms to that approval. 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 submitted a memorandum dated September 27, 2023 (Rivera to Kosack), which included a density calculation and explanation of how the net tract acreage was calculated, 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.

RECOMMENDATION

Based on the forgoing supplemental evidence provided by the applicant, the Urban Design Section recommends that the Planning Board adopt the additional findings of this memorandum to address the five specific issues subject to the Order of Remand, and issue an amendment to PGCPB Resolution No. 2023-15, with no new conditions.