



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 <http://mncppc.iqm2.com/Citizens/Default.aspx>

Specific Design Plan Case Yergat

SDP-2203

REQUEST	STAFF RECOMMENDATION
Grading infrastructure only for a residential community.	With the conditions recommended herein: <ul style="list-style-type: none">• Approval of Specific Design Plan SDP-2203• Approval of Type 2 Tree Conservation Plan TCP2-048-2022

Location: On the southern side of Westphalia Road, approximately 3,750 feet west of its intersection with Ritchie Marlboro Road.	
Gross Acreage:	158.28
Zone:	LCD/MIO
Prior Zone:	R-M/M-I-O
Reviewed per prior Zoning Ordinance:	Section 27-1704(b)
Dwelling Units:	N/A
Gross Floor Area:	N/A
Planning Area:	78
Council District:	06
Municipality:	N/A
Applicant/Address: Andy Garrich 4506 Daly Drive, Suite 300 Chantilly, VA 20151	
Staff Reviewer: Tom Burke Phone Number: 301-952-2739 Email: Thomas.Burke@ppd.mncppc.org	



Planning Board Date:	03/09/2023
Planning Board Action Limit:	03/09/2023
Staff Report Date:	02/23/2023
Date Accepted:	12/14/2022
Informational Mailing:	03/15/2022
Acceptance Mailing:	11/15/2022
Sign Posting Deadline:	07/07/2023

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.

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Specific Design Plan SDP-2203
 Type 2 Tree Conservation Plan TCP2-048-2022
 Case Yergat

The Urban Design staff has reviewed the specific design plan for the subject property and presents the following evaluation and findings leading to a recommendation of APPROVAL, with conditions, as described in the Recommendation section of this technical staff report.

EVALUATION

This property is within the Legacy Comprehensive Design (LCD) Zone. However, this application is being reviewed and evaluated in accordance with the prior Prince George's County Zoning Ordinance, pursuant to Section 27-1704(b) of the Zoning Ordinance, which allows an application for a project with an existing approval under the prior Zoning Ordinance or Subdivision Regulations, to be reviewed and approved under the prior Zoning Ordinance. This specific design plan was reviewed and evaluated for conformance with the following criteria:

- a. The requirements of Zoning Map Amendment (Basic Plan) A-9973-02;
- b. The requirements of the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*;
- c. The requirements of the prior Prince George's County Zoning Ordinance in the Residential Medium Development (R-M) and Military Installation Overlay (M-I-O) Zones;
- d. The requirements of Comprehensive Design Plan CDP-0601 and its amendments;
- e. The requirements of Preliminary Plan of Subdivision 4-21049;
- f. The requirements of the 2010 *Prince George's County Landscape Manual*;
- g. The requirements of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance;
- h. The requirements of the Prince George's County Tree Canopy Coverage Ordinance; and
- i. Referral comments.

FINDINGS

Based upon the analysis of the subject application, the Urban Design staff recommends the following findings:

1. **Request:** This application requests approval of a specific design plan (SDP) for grading infrastructure only for a residential community.

2. **Development Data Summary:**

	EXISTING	PROPOSED
Zones	LCD/MIO	Prior R-M/M-I-O
Use	Vacant	Grading Infrastructure
Gross Total Acreage	158.28	158.28
Floodplain Acreage	2.07	2.07
Net Acreage of SDP	156.21	156.21

3. **Location:** This site is located on the south side of Westphalia Road, approximately 3,750 feet west of its intersection with Ritchie Marlboro Road. The subject property is in Planning Area 78 and Council District 6.
4. **Surrounding Uses:** To the north of this site is Westphalia Road, with existing residential development in the Residential Estate (RE) Zone beyond; to the east is vacant land in the RE Zone; to the south is vacant land in the LCD Zone, and to the west is existing residential development in the Residential, Rural Zone.
5. **Previous Approvals:** The 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* (Westphalia Sector Plan and SMA) rezoned the subject property from the Residential-Agricultural (R-A) Zone to the Residential Medium Development (R-M) Zone. The 2021 *Approved Countywide Map Amendment* placed the subject property in the Military Installation Overlay/Legacy Comprehensive Design (MIO/LCD) Zones.

Zoning Map Amendment (Basic Plan) A-9973 and Comprehensive Design Plan CDP-0601, titled Woodside Village, established the original plan for the overall development of the subject site. On February 6, 2007, the Prince George's County District Council approved the Westphalia Sector Plan and SMA (Prince George's County Council Resolution CR-2-2007). A-9973, which requested rezoning from the prior R-A Zone to the prior R-M Zone, for approximately 381.95 acres of land, was included within the Council's approval of the SMA. In 2009, the District Council affirmed the Prince George's County Planning Board's approval of CDP-0601, for development of 1,422–1,496 residential units, including approximately 1,276 single-family dwelling units (attached and detached) and 220 multifamily dwelling units. However, no subsequent applications were ever submitted or approved pursuant to these approvals.

On November 15, 2021, the District Council approved A-9973-02 to amend the original Woodside Village basic plan, to separate approximately 158.28 acres consisting of Parcel 5 (Yergat property) and Parcel 19 (Case property) and establish a new basic plan specific to

the property included in this SDP. A-9973-02 approved up to 661 dwelling units on the subject site, with 15 conditions.

On May 19, 2022, the Planning Board adopted a resolution of approval for CDP-0601-01 for Case Yergat (PGCPB Resolution No. 2022-50), to allow 516–531 single-family detached and 110–130 single-family attached residential dwelling units for a maximum of 661 dwelling units, subject to 7 conditions. On June 6, 2022, the District Council waived the election to review this case. CDP-0601-01 approved amendments to CDP-0601 applicable to this site only, in accordance with A-9973-02.



Figure 1: Approved Conceptual Design Plan

On July 21, 2022, the Planning Board approved Preliminary Plan of Subdivision (PPS) 4-21049 for Case Yergat (PGCPB Resolution No. 2022-86). The PPS approved 610 lots and 58 parcels for the development of 493 single-family detached and 117 single-family attached dwelling units, with 30 conditions.

6. **Design Features:** This site is roughly rectangular in shape, with bump outs in the southeast and southwest corners, and follows the Westphalia Road curves along the northern property line. Grading and the limits of disturbance are shown on the SDP together with existing environmental features on the property such as streams, floodplain, wetlands, and primary management areas (PMAs). Details of layout and site design for this development will be determined when a full-scale SDP is submitted for review.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Map Amendment (Basic Plan) A-9973-Approved Zoning Change 6 of the Sectional Map Amendment/Sector Plan Development Concept 3 for Woodside Village in the 2007 Approved Westphalia Sector Plan and Sectional Map Amendment:** The larger property of approximately 381.95 acres was rezoned to the R-M Zone from the R-A-Zone by the Westphalia Sector Plan and SMA, as stated in Appendix 5, including

five conditions. The District Council approved Basic Plan A-9973-02 (Zoning Ordinance No. 8-2021) on November 15, 2021, which supersedes the previous approval and conditions with 15 conditions, the following of which are relevant to this application for infrastructure only:

4. **Prior to approval of a SDP, if an archeological site has been identified as significant and potentially eligible to be designated as an historic site or determined eligible to the National Register of Historic Places, the applicant shall provide a plan for: a. Avoiding and preserving the resource in place; or b. Phase III Data Recovery investigations and interpretation.**

None of the archeological sites identified in the Phase I and II investigations of the Case and Yergat properties were found to be intact or significant. No further archeological investigations are recommended on any of the archeological sites.

5. **If required, prior to approval of a SDP or the area including the cemetery and the archeological sites, the applicant's Phase III Data Recovery plan shall be approved by the Maryland-National Capital Park and Planning Commission staff archeologist. The Phase III (Treatment/Data Recovery) final report shall be reviewed for compliance with the Guidelines for Archeological Review before any ground disturbance or before the approval of any grading permits within 50 feet of the perimeter of the archeological site(s) identified for Phase III investigation.**

Phase III archeological investigations were not recommended on the archeological sites identified on the Case and Yergat properties.

6. **Prior to approval of a SDP, the applicant shall provide a plan for any interpretive signage to be erected (based on the findings of the Phase I, Phase II, or Phase III archeological investigations). The location and wording of the signage shall be subject to approval by the HPC and the Maryland-National Capital Park and Planning Commission staff archeologist. Installation of the signage shall occur prior to issuance of the first building permit for development.**

This condition is still outstanding and will be addressed with the SDP for architecture.

7. **Prior to approval of a SDP for the area including the cemetery and any archeological sites, the applicant shall provide for buffering of the Dunblane (Magruder/McGregor family) cemetery and/or any archeological site designated as an historic site, in compliance with the 2010 Prince George's County Landscape Manual.**

This condition is still outstanding and will be addressed with the SDP for architecture.

8. **Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements in the R-M Zone of the prior Zoning Ordinance.

- a. Section 27-527 of the prior Zoning Ordinance sets forth the following criteria for approval of an SDP:

- (a) **The applicant shall demonstrate to the Planning Board that, in the preparation of the Specific Design Plan, he has devoted adequate attention to building and landscape design, and engineering factors. The signatures of a qualified design team (including an architect, a landscape architect, and a professional engineer) on the Specific Design Plan shall be prima facie evidence that the respective factors within the scope of the signer's profession have been considered.**

This application is for grading infrastructure only and does not include any landscape, building, or architectural components. The proposed application has been prepared by Soltesz, LLC and signed by the appropriate civil engineer in accordance with this requirement. This criterion will be evaluated again with future SDP applications.



Figure 2: Grading Infrastructure Plan

- (b) **The Specific Design Plan shall include (at least) the following with all plans prepared at the same scale:**

- (1) **A reproducible site plan showing buildings, functional use areas, circulation, and relationships between them; and in the V-M and V-L Zones, a three-dimensional model and a modified grid plan, which may include only the Village Proper, and any Hamlet, which incorporates plan concepts, spatial and visual relationships, streetscape, and other characteristics of traditional rural villages shall be provided prior to Planning Board and District Council review;**

- (2) **Reproducible preliminary architectural plans, including floor plans and exterior elevations;**
- (3) **A reproducible landscape plan prepared in accordance with the provisions of the Landscape Manual;**
- (4) **A Type 2 Tree Conservation Plan prepared in conformance with Division 2 of Subtitle 25 and The Woodland and Wildlife Habitat Conservation Technical Manual or Standard Letter of Exemption;**
- (5) **An approved Natural Resource Inventory; and**
- (6) **A statement of justification describing how the proposed design preserves or restores the regulated environmental features to the fullest extent possible.**

This SDP has been prepared to meet all the applicable drawing and plan submission requirements. It should be noted that the application is for infrastructure to support the ultimate development of the property. Thus, no architectural elevations are included at this time. Such plan details will be reflected in future SDP revisions.

- (c) **An applicant may submit a Specific Design Plan for Infrastructure in order to proceed with limited site improvements. These improvements must include infrastructure which is essential to the future development of the site, including streets, utilities, or stormwater management facilities. Only those regulations, submittal requirements, development standards, and site design guidelines which are applicable shall be considered. The Planning Board may also consider the proposal in light of future requirements, such that the plan cannot propose any improvements which would hinder the achievement of the purposes of the zone, the purposes of this Division, or any conditions of previous approvals, in the future. The Planning Board shall also consider any recommendations by the Department of Permitting, Inspections, and Enforcement and the Prince George's Soil Conservation District. Prior to approval, the Planning Board shall find that the Specific Design Plan is in conformance with an approved Type 2 Tree Conservation Plan and must also approve a Type 2 Tree Conservation Plan in conjunction with approval of the Specific Design Plan for Infrastructure.**

This SDP is for infrastructure only. Specifically, the application proposes grading, clearing, and sediment control/stormwater management (SWM) devices for the property. All areas shown to be impacted by this application will ultimately be developed with residential units, in conformance with the approved CDP and PPS 4-21049 applicable to the property. A Type 2 tree conservation plan (TCP2) has been submitted for review with this application.

- b. Section 27-528 of the prior Zoning Ordinance sets forth the following criteria for approval of an SDP for infrastructure:

(b) Prior to approving a Specific Design Plan for Infrastructure, the Planning Board shall find that the plan conforms to the approved Comprehensive Design Plan, 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.

This application conforms to the approved CDP and PPS 4-21049 applicable to Woodside Village, as mentioned herein. Further, the proposed layout and associated infrastructure will not be detrimental to the health, safety, or welfare of any resident or property owner within the County. The property does contain numerous regulated environmental features including streams, wetlands, and floodplain, all of which are contained within the PMA, as shown on the approved natural resources inventory (NRI) plan. Impacts are proposed to the PMA and stream buffer and were reviewed and approved at the time of PPS. No additional impacts are proposed with this application.

The proposed infrastructure is necessary to implement the planned residential development for the property, as reflected in the approved basic plan, CDP, and PPS. The ultimate development of the residential uses for the property will promote the health, safety, and welfare of the existing residents of the County by providing a variety of new living opportunities, as well as increasing the overall tax base for Prince George's County. In addition, all grading activities will be performed pursuant to a site development permit from the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) and will respect all approved limits of disturbance established for the property, thereby preventing off-site property damage and environmental degradation. The proposed grading will also incorporate all required sediment control devices to prevent any damaging drainage, erosion, or pollution discharge.

9. **Comprehensive Design Plan CDP-0601:** CDP-0601 for Woodside Village was approved by the Planning Board on July 31, 2008 (PGCPB Resolution No. 08-121) and affirmed by the District Council on February 9, 2009, for development of 1,422–1,496 residential units, including approximately 1,276 single-family dwelling units (attached and detached) and 220 multifamily dwelling units; however, no subsequent applications were ever submitted or approved pursuant to these approvals. An amendment, CDP-0601-01, was approved by the Planning Board on April 28, 2022 (PGCPB Resolution No. 2022-50), to allow 516–531 single-family detached and 110–130 single-family attached residential dwelling units for a maximum of 661 dwelling units, subject to 7 conditions. The following condition relates to this application:

5. **At the time of specific design plan (SDP), the applicant shall:**

- a. **Submit a list of sustainable site and green building techniques at the site, building, and appliance levels that will be used in this development.**

b. Provide the following site plan notes on the SDP:

“The applicant shall conform to construction activity noise control requirements, as specified in Subtitle 19 of the Prince George’s County Code.”

“The applicant shall conform to construction activity dust control requirements, as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.”

These required notes are within the general notes of the SDP.

Conformance with the remaining applicable conditions will be evaluated when a full-scale SDP is submitted for consideration.

- 10. Preliminary Plan of Subdivision 4-21049:** On July 21, 2022, the Planning Board approved PPS 4-21049 (PGCPB Resolution No. 2022-86) for 610 lots and 58 parcels, for the development of 493 single-family detached and 117 single-family attached dwelling units, with 30 conditions. The following conditions are relevant to this application:

3. Development of this site shall be in conformance with the approved stormwater management concept plan (38822-2021-00) and any subsequent revisions.

An approved SWM concept plan (38822-2021-00) was submitted for review with the SDP. The approved concept plan shows the use of submerged gravel wetlands, bioswales, and ponds. The TCP2 shall be revised to be reflective of the locations of the proposed stormwater features and shall show outfalls and identify each feature with the same numbering system as shown on the approved stormwater concept.

26. Prior to acceptance of the specific design plan, a global stability analysis performed on critical slopes shall be submitted for both unmitigated and mitigated conditions, in compliance with Techno-gram 005-2018.

The revised slope analysis on Section DD was provided on February 7, 2023 and indicated that the grading and unit weight of the New Fill has changed, making this section qualify as passing. Prior to certification of the SDP, a final geotechnical report, including the revised slope stability analysis on Section DD which the slope stability had failed in the original geotechnical report, shall be submitted for review. The specifications of the materials and the construction of the New Fill shall be described on the final geotechnical report. The final geotechnical report shall be reviewed and approved by DPIE at the time of the grading permit process.

- 11. 2010 Prince George’s County Landscape Manual:** Per Section 27-528(a)(1) of the prior Zoning Ordinance, an SDP must conform to the applicable standards of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual). The proposed development of infrastructure only is exempt from conformance with Section 4.1, Residential Requirements; Section 4.2, Requirements for Landscape Strips along Streets; Section 4.6, Buffering Development from Streets; and Section 4.7, Buffering Incompatible Uses, of the

Landscape Manual because it does not propose a change in intensity of use, or an increase of impervious area for parking or loading spaces or gross floor area on the subject property. Future SDPs that include development of the site will have to be reevaluated for conformance with the applicable sections of the Landscape Manual.

12. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** TCP2-048-2022 was submitted with this application and shows the overall 158.28-acre site with a net tract area of 156.21 acres. The site has 31.52 acres of existing woodland in the net tract area, and 2.07 acres of existing woodlands in the floodplain. The woodland conservation threshold is 31.24 acres (20 percent of the net tract area). The woodland conservation worksheet shows the removal of 16.23 acres of woodland on the net tract area, 0.41-acre of woodlands in the floodplain, and 0.32 acre off-site resulting in a woodland conservation requirement of 63.95 acres. This requirement is proposed to be met with 15.29 acres of woodland preservation, 9.31 acres of afforestation, and 39.35 acres of off-site credits. Of the required 31.52-acre threshold, only 24.60 acres (78 percent) are being met on-site.
13. **Prince George's Country Tree Canopy Coverage Ordinance:** Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage on projects that require a grading or building permit for more than 5,000 square feet of disturbance. Conformance with the requirements of the Tree Canopy Coverage Ordinance will be evaluated when a full-scale SDP is submitted for consideration.
14. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows, and are incorporated herein by reference:
 - a. **Community Planning**—In a memorandum dated January 5, 2023 (Bishop to Burke), incorporated herein by reference, the Community Planning Division noted that the Westphalia Sector Plan and SMA rezoned the subject property from the R-A Zone to the R-M Zone, and the 2021 *Approved Countywide Map Amendment* placed the subject property in the MIO/LCD Zone.

Pursuant to Part 8, Division 4, Subdivision 2, of the prior Zoning Ordinance, master plan conformance is not required for this application.
 - b. **Transportation Planning**—In a memorandum dated February 6, 2023 (Ryan to Burke), incorporated herein by reference, Transportation staff provided an analysis of previous conditions of approval that have been incorporated in the findings above. The memorandum noted that the site has frontage on Westphalia Road (C-626), along its northern boundary. In addition, the site is impacted by two master plan roads that traverse through the site. The location and design of these roadways, as well as the bicycle and pedestrian facilities, were depicted and approved with PPS 4-21049, as envisioned in the 2009 *Approved Countywide Master Plan of Transportation*, and will be used to evaluate future SDPs. Specific to the subject application, the location of SWM facilities has been strategically placed so as not to interfere with any of the planned roadways, which will ultimately serve the subject site. Staff finds that the application meets master plan compliance regarding recommended roadways.

- c. **Subdivision**—In a memorandum dated February 2, 2023 (Vatandoost to Burke), incorporated herein by reference, Subdivision staff provided an analysis of previous conditions of approval which are incorporated in the findings of this technical staff report. In addition, staff found that the line type used for proposed outparcel boundary lines is not consistent and some of the property boundary lines are not described by the bearings and distances. A condition is provided herein, requiring the SDP to be revised to reflect a consistent boundary line type, and provide all property line bearings and distances.
- d. **Environmental Planning**—In a memorandum dated February 13, 2023 (Kirchhof to Burke), incorporated herein by reference, a review of the site's environmental features and prior conditions of approvals was presented. The site has an approved natural resources inventory plan (NRI-158-05-03) which shows the existing conditions of the property. The TCP2 requires technical corrections, with conditions recommended herein.

Specimen Trees

Section 25-122(b)(1)(G) of the Prince George's County Code requires that "Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree's condition and the species' ability to survive construction as provided in the Technical Manual." The Code, however, is not inflexible.

The authorizing legislation of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) is the Maryland Forest Conservation Act, which is codified under Title 5, Subtitle 16 of the Natural Resources Article of the Maryland Code. Section 5-1611 of the Natural Resources Article requires the local jurisdiction to provide procedures for granting variances to the local forest conservation program. The variance criteria in the WCO are set forth in Section 25-119(d) of the County Code. Section 25-119(d)(4) clarifies that variances granted under Subtitle 25 are not considered zoning variances.

The required findings of Section 25-119(d) were adequately addressed with the PPS. Staff reviewed a specimen tree variance request for the removal of 25 specimen trees (24–28, 32–40, 45, 46, 49–51, 53–57, and 60). Specimen tree removals were approved by the Planning Board on July 21, 2022, in association with the PPS approval.

Due to required grading for the 1.5 factor of safety line, modifications are required to the proposed SWM facility on Sheet 15, which has resulted in the request for removal of an additional two specimen trees numbered 13 and 14. A variance request was submitted with the revised material dated January 26, 2023. A revised variance request was submitted on February 9, 2023, which provided an analysis of each specimen tree proposed for removal.

Tree #	DBH	Common Name	Condition	Reason for Removal
13	57	Red oak	Fair	1.5 Factor of Safety
14	31	White oak	Fair	1.5 Factor of Safety

Evaluation

Staff supports the removal of the two specimen trees requested by the applicant, based on the findings below. Section 25-119(d) contains six required findings [text in **bold** below] to be made before a variance from the WCO can be granted. An evaluation of this variance request, with respect to the required findings, is provided below.

(A) Special conditions peculiar to the property have caused the unwarranted hardship.

In relation to other properties in the area, special conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the two specimen trees. Those “special conditions” relate to the specimen trees themselves, such as their size, condition, species, and on-site location. The property is 158.28 acres, and the NRI shows approximately 24.42 acres of PMA comprised of streams, floodplain, wetlands, and associated buffers. This represents approximately 15 percent of the overall site area. The applicant proposed nine impacts to the site’s PMA with the PPS, which were fully minimized to the extent practicable, and is proposing woodland conservation and afforestation to further protect the PMA.

The specimen trees are located across the entire site, many within the PMA or just outside the PMA. The specimen trees proposed for removal are located in the areas of the site that are being utilized for the safe transference of stormwater off-site. This required additional grading is due to the nature of the soils and slopes on-site. This site contains steep slopes, wetlands, streams, and floodplains, which restrict grading. Complete retention of these trees would severely limit the developable area of the site. A summary of each tree follows.

Specimen Tree 13 is identified on the TCP2 as 57-inch diameter at breast height, red oak in fair condition. Provided within the variance request, the condition of the tree is further detailed. The assessment of this tree reports some trunk and top decay, as well as general dieback. The trunk is split in one area and limited amounts of decay was observed. This tree is located within the south-central portion of the site outside of the PMA. While the red oak species tend to have good to medium construction tolerances, the fair condition of the tree shows that further stress could result in additional decay or hazard. The applicant is proposing to remove this tree due to the limitations of the slope type, which requires the 1.5 factor of safety line in certain areas of the site. If this tree were to be retained, the required slope stability grading could not occur, which may lead to slope failure of the associated stormwater feature. The submerged gravel wetland proposed in this area of the site is used as a catchment area for runoff and rainwater from the proposed development. In the event of a slope failure, additional water/runoff may enter the PMA. Specimen Tree 13 is supported for removal in order to establish the safe transference of stormwater off-site.

Specimen Tree 14 is identified on the TCP2 as 31-inch diameter at breast height, white oak in fair condition. Provided within the variance request, the condition of the tree is further detailed. The assessment of the tree reports some trunk and top decay, as well as general dieback. The trunk was observed to be in good visual condition, with limited scarring. This tree is located within the south-central portion of the site outside of the PMA, roughly 30 feet away from Specimen Tree 13. While the white oak species tend to have good to medium construction tolerances, the fair condition of the tree shows that further stress could result in additional decay or hazard. The applicant is proposing to remove this tree due to the limitations of the slope type, which requires the 1.5 factor of safety line in certain areas of the site. If this tree were to be retained, the required slope stability grading could not occur, which may lead to slope failure of the associated stormwater feature. This submerged gravel wetland proposed in this area of the site is used as a catchment area for runoff and rainwater from the proposed development. In the event of a slope failure, additional water/runoff may enter the PMA. Specimen Tree 14 is supported for removal in order to establish the safe transference of stormwater off-site.

(B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas.

Enforcement of the requirement that all specimen trees be preserved, along with an appropriate percentage of their critical root zone, would deprive the applicant of rights commonly enjoyed by others in similar areas. All variance applications for the removal of specimen trees are evaluated in accordance with the requirements of Subtitle 25 and the Environmental Technical Manual for site specific conditions. Specimen trees grow to such a large size because they have been left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all somewhat unique for each site.

Based on the location and species of the specimen trees proposed for removal, retaining the trees and avoiding disturbance to the critical root zone would have a considerable impact on the stormwater control and slope stability for the property. If similar trees were encountered on other sites, they would be evaluated under the same criteria. The proposed residential development is a use that aligns with the uses permitted in the R-M Zone. The specimen trees requested for removal are located within the most structurally sound engineering parts of the site.

(C) Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants.

Not granting the variance would prevent the project from being developed in a functional, safe, and efficient manner. This is not a special privilege that would be denied to other applicants. If other similar developments featured regulated environmental features and specimen trees in similar conditions and locations, it would be given the same considerations during the review of the required variance application.

(D) The request is not based on conditions or circumstances, which are the result of actions by the applicant.

The existing site conditions or circumstances, including the location of the specimen trees, are not the result of actions by the applicant. The removal of the two specimen trees would be the result of the stormwater infrastructure and 1.5 factor of safety grading required due to underlying soil types for the development. While oak species have good to medium tolerances, the above trees are in fair condition, and may become stressed by grading activities required to stabilize the slopes, thus retaining these trees could lead to hazardous conditions. The request to remove the trees is solely based on the trees' locations on the site, their species, and their condition.

(E) The request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

There are no existing conditions relating to land, building uses on the site, or on neighboring properties, which have any impact on the location or size of the specimen trees. The trees have grown to specimen tree size based on natural conditions and have not been impacted by any neighboring land or building uses.

(F) Granting of the variance will not adversely affect water quality.

Granting this variance request will not violate State water quality standards, nor cause measurable degradation in water quality. Requirements regarding SWM will be reviewed and approved by the DPIE. Erosion and sediment control requirements are reviewed and approved by the Prince George's County Soil Conservation District. Both SWM and sediment and erosion control requirements are to be met in conformance with state and local laws to ensure that the quality of water leaving the site meets the State's standards. State standards are set to ensure that no degradation occurs.

The required findings of Section 25-119(d) have been adequately addressed for the removal of two specimen trees, identified as Specimen Trees 13 and 14. Staff recommends that the Planning Board approve the requested variance for the removal of two specimen trees for the construction of a residential development.

- e. **Historic**—In a memorandum dated January 18, 2023 (Gross and Stabler to Burke), incorporated herein by reference, it was noted that the Historic Preservation Commission reviewed the SDP at its January 17, 2023 meeting and voted unanimously in support of this application, with conditions carried forward from previous applications.
- f. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—At the time of the writing of this technical staff report, DPIE did not comment on the subject SDP.

- g. **Prince George's County Police Department**—At the time of the writing of this technical staff report, the Police Department did not comment on the subject SDP.
- h. **Prince George's County Health Department**—In a memorandum dated December 21, 2022 (Adepoju to Burke), incorporated herein by reference, the Health Department provided a comment that prior to the grading of the site, if any well and septic structures are discovered, then the applicant is to abandon and backfill those structures according to the guidance of the local regulatory agency. Contact the Health Department's Environmental Engineering and Policy Program for guidance at (301) 883-7681.
- i. **Prince George's County Department of Parks and Recreation (DPR)**—In a memorandum dated February 6, 2023 (Thompson to Burke), DPR noted that at the time of PPS review, the applicant opted to provide private on-site recreational facilities in designated areas of the site, to serve the recreational needs of the proposed community. The fulfillment of on-site recreation facilities will be evaluated with the future SDP for the site development.

The applicant shall make a monetary contribution into a park club, as recommended by the Westphalia Sector Plan and SMA and conditioned with the PPS.
- j. **Prince George's County Fire/EMS Department**—At the time of the writing of this technical staff report, the Fire/EMS Department did not comment on the subject SDP. However, at the Subdivision Development Review Committee meeting, the Fire/EMS Department indicated that there were no issues with this application.

RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Urban Design staff recommends that the Planning Board adopt the findings of this report and APPROVE Specific Design Plan SDP-2203, and Type 2 Tree Conservation Plan TCP2-048-2022, for Case Yergat, subject to the following condition:

- 1. Prior to certification of the specific design plan (SDP), the applicant shall provide the following information and/or revise the site plan to provide the following:
 - a. Revise the boundary lines for outparcels using a consistent line type and providing all bearings and distances.
 - b. A final geotechnical report, including the revised slope stability analysis on Section DD, which the slope stability had failed in the original geotechnical report, shall be submitted for review.
 - c. Provide a legend on each sheet of the Type 2 tree conservation plan.
 - d. Revise the legend to indicate the wetlands symbology present on the Type 2 tree conservation plan.

- e. All easements and impacts associated with the Washington Suburban Sanitary Commission easement shall be shown on the Type 2 tree conservation plan.
- f. Each stormwater facility shall be labeled on the Type 2 tree conservation plan and be reflective of the approved stormwater management concept plan.