

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, in consideration of evidence presented at a public hearing on November 6, 2008 regarding Detailed Site Plan DSP-08024 for Westphalia Row, (Infrastructure only), the Planning Board finds:

1. **Request:** This application proposes to relocate existing Fernwood Drive within the confines of the subject property. This request is made as a detailed site plan for infrastructure, per Section 27-286(b) of the Zoning Ordinance.
2. **Location:** The subject property is located at the southwest corner of the intersection of Ritchie Marlboro Road and Sansbury Road, in Planning Area 78, Council District 6. It is within the Developing Tier. This intersection is designated by the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment* as the location of a mixed-use village center and as one of ten gateways into Westphalia. Fernwood Drive, an existing public right-of-way, passes through the site.
3. **Surrounding Uses:** To the northwest of the site is the exit ramp leading from I-495 to Ritchie Marlboro Road. To the south of the subject site is an existing single-family residence in the R-R Zone. Further south and west on Fernwood Drive is a mobile home park. Across Sansbury Road, to the east, are the Ritchie Baptist Church property and the PB&J property, which are also zoned M-X-T as part of the village center. These two properties are currently developed with a church and a single-family home.
4. **Previous Approvals:** This property was rezoned to M-X-T by the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*. As part of this rezoning, the Prince George's County District Council approved the concept plan for development of the subject property and the neighboring properties to the east and southeast as an integrated, mixed-use development. This concept plan is illustrated in plan view and with illustrative perspective renderings in Exhibit 19, presented as part of the public record for the sectional map amendment.

Conceptual Site Plan CSP-07001 was approved for the subject property by the Planning Board on January 10, 2008, and by the District Council on July 1, 2008. Preliminary Plan of Subdivision 4-07038 was approved by the Planning Board on January 10, 2008.
5. **Design Features:** The subject DSP proposes to relocate Fernwood Drive within the area of the subject property. The new alignment is proposed to run from east to west through the center of the site. The new intersection of Fernwood Drive and Sansbury Road would be located

approximately 250 feet north of the existing intersection.

6. **Zoning Ordinance:** The DSP has been submitted in accordance with 27-286(b), which states the following:

- (b) **An applicant may submit a Detailed Site 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, 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 zones, 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 Environmental Resources and the Prince George's Soil Conservation District.**

The revised alignment is necessary in order to allow for the future development of the site to be in conformance with the approved conceptual site plan and preliminary plan. The new alignment is proposed to be constructed in conformance with the road standards of the Department of Public Works and Transportation (DPW&T).

The Planning Board may approve a detailed site plan for infrastructure provided that it makes the following finding set forth in Section 27-285(b)(3) of the Zoning Ordinance:

- (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.**

The proposed plan is in conformance with the appropriate site design guidelines, and would not allow any offsite property damage or environmental degradation to occur as a result of the road realignment.

Approval of detailed site plans in the M-X-T Zone is subject to additional findings being made, as stated in Section 27-546(d) of the Zoning Ordinance below. Most of these findings are inapplicable or are only marginally applicable to the review of the infrastructure-only plan.

- (d) **In addition to the findings required for the Planning Board to approve either the Conceptual or Detailed Site Plan (Part 3, Division 9), the Planning Board shall also find that:**

- (1) **The proposed development is in conformance with the purposes and other provisions of this Division;**

The purposes of the M-X-T Zone are not applicable to the proposed infrastructure-only DSP, except in the approval of the DSP it is necessary in order to achieve conformance of the later residential and commercial development to the approved CSP, which is in conformance with the purposes of the zone.

- (2) **For property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, the proposed development is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;**

The plan is in conformance with the design guidelines and standards of the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*.

- (3) **The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;**

This requirement is not applicable to the infrastructure-only DSP.

- (4) **The proposed development is compatible with existing and proposed development in the vicinity;**

The proposed road is compatible with existing and proposed development in the vicinity.

- (5) **The mix of uses, arrangement and design of buildings and other improvements, and provision of public amenities reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;**

Realigning the road will contribute to the cohesiveness of the future development by providing a public main street through the center of the site.

- (6) **If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;**

The residential and commercial portions of the Westphalia Row project are proposed to occur in phases. The proposed relocation of Fernwood Drive will not be phased except that the new alignment

will be constructed prior to the abandonment of the old alignment, thereby maintaining the operation of the road during the relocation process.

- (7) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity within the development;**

The new alignment of Fernwood Drive is designed with sidewalks on both sides of the road as required by the county's road standards.

- (8) On the Detailed Site Plan, in areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial); and**

This DSP does not propose pedestrian activity areas or gathering places other than the standard sidewalks along the road. The overall development will include gathering places and activity areas as shown on the CSP.

- (9) On a Conceptual Site Plan for property placed in the M-X-T Zone by a Sectional Map Amendment, transportation facilities that are existing; that are under construction; or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, or the current State Consolidated Transportation Program, will be provided by the applicant, or are incorporated in an approved public facilities financing and implementation program, will be adequate to carry anticipated traffic for the proposed development. The finding by the Council of adequate transportation facilities at the time of Conceptual Site Plan approval shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.**

This finding is not applicable to a detailed site plan.

- (10) On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant.**

Findings of adequacy for this property were made with the 2008 approval of Conceptual Site Plan CSP-07001 and Preliminary Plan of Subdivision 4-07038.

- (11) On a property or parcel zoned E-I-A or M-X-T and containing a minimum of two hundred fifty (250) acres, a Mixed-Use Planned Community including a combination of residential, employment, commercial and institutional uses may be approved in accordance with the provisions set forth in this Section and Section 27-548.**

The site is smaller than 250 acres and the plan does not propose a Mixed-Use Planned Community.

7. **CSP-07001 and 4-07038:** The approved CSP provides for the development of the site as part of the mixed-use activity center, including a mixed retail and office commercial building of 50,000–100,000 square feet and 420–600 dwelling units in a mix of multifamily units, front-loaded townhouses, rear-loaded townhouses, and triplex-stacked townhouses. On the approved plan, Fernwood Drive is relocated from its existing location along the southern portion of the property to a new route through the center of the property to serve as the main street of the development.

The proposed DSP shows the new alignment of Fernwood Drive in conformance with the layout shown on the approved CSP.

The CSP included the following condition that is relevant to the subject application:

- 26. Applicant is to relocate the existing Fernwood Drive. Once the existing Fernwood Drive is relocated, the previous property in which the old Fernwood Drive was located shall be deeded from Prince George's County, Maryland to the applicant.**

At the time of CSP review, the right-of-way for Fernwood Drive was in the ownership of the Maryland State Highway Administration (SHA). It has since been transferred to the Department of Public Works and Transportation (DPW&T). The applicant proposes to construct the new Fernwood Drive alignment in accordance with the submitted site plan, and dedicate the new alignment, thereby relocating the roadway. At that point, Prince George's County will be in a position to deed the old right-of-way to the applicant.

The preliminary plan included the following condition that is relevant to the subject application:

- 19. Prior to the approval of a final plat of subdivision affecting existing Fernwood Drive, the applicant, his successor and/or assignees shall obtain fee-simple ownership of the land associated with the existing right-of-way for Fernwood Drive over the subject property.**

Following approval of the infrastructure-only DSP, the applicant will be able to obtain final plat approval for a plat showing the new Fernwood Drive alignment, but not altering or affecting the

existing road. At that point, the road can be constructed and dedicated to public use. The old right-of-way can then be deeded to the applicant and Condition 19 will then allow for a new plat to be recorded affecting the old right-of-way.

8. **Subdivision Section:** In a memorandum dated August 7, 2008 (Thompson to Lindsay), the Subdivision Section identified the appropriate conditions and findings of the approved preliminary plan that relate to the review of this DSP. The subdivision reviewer noted that Condition 19 of the preliminary plan related to the review, and stated that the applicant should address the condition by submitting deeds of ownership or a contract to purchase the existing Fernwood Drive right-of-way. The applicant has submitted evidence that the right-of-way was transferred from SHA to DPW&T, but has not submitted a contract to purchase the land from Prince George's County. Instead, the applicant has indicated that they have been working closely with DPW&T to insure that the transfer can be completed. As Condition 19 does not require the applicant to obtain ownership prior to approval of a DSP, the applicant has shown sufficient progress towards obtaining ownership of the existing right-of-way to adequately address Condition 19 at this stage of the review process. Full ownership of the right-of-way cannot be obtained until after the new road alignment is constructed, which cannot take place until the DSP is approved.
9. **Environmental Planning Section:** In a memorandum dated September 18, 2008 (Fritz to Lindsay), the Environmental Planning Section reviewed the plans and noted that many of the environmental conditions of the CSP and preliminary plan do not apply to the review of the infrastructure-only DSP. The memorandum recommended approval of the DSP and TCPII/055/08 subject to conditions. Those conditions have been included except for one condition related to noise impacts inside buildings. As no buildings are proposed in this DSP, that condition will be more appropriate for future DSP's. Two other conditions recommended in the referral have already been addressed by revised plans.
10. **Department of Public Works and Transportation:** In a memorandum dated October 9, 2008 (Abraham to Lindsay), DPW&T provided comments on the proposed realignment. The relocated Fernwood Drive is to be constructed in accordance with County roadway standards for an urban primary residential road with a 60-foot-wide right-of-way, transitioning to meet the existing 50-foot-wide right-of-way for the remaining portion of Fernwood Drive to the southwest of the subject property. The proposed relocation shall be constructed and open to traffic before the existing Fernwood Drive is closed and demolished. The new road is required to conform to DPW&T's standard for street trees, lighting, stormwater drainage, sidewalks, and utilities.
11. The detailed site 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.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and

Planning Commission adopted the findings contained herein and APPROVED the Type II Tree Conservation Plan (TCPII/059/08) and further APPROVED Detailed Site Plan DSP-08024 for the above-described land, subject to the following conditions:

1. The following note shall be placed on the final plat of subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/033/07), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”

2. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the primary management area except for the one area of impact approved, and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the Maryland-National Capital Park and Planning Commission Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

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 Vaughns, seconded by Commissioner Cavitt, with Commissioners Vaughns, Cavitt and Parker voting in favor of the motion, with Commissioner Clark absent, and with Commissioner Squire temporarily absent at its regular meeting held on Thursday, November 6, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of December 2008.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator

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