

<b>SIMPSON OAKS CRP3, LLC</b>	:	BEFORE THE
<b>Appellant</b>	:	HOWARD COUNTY
<b>v.</b>	:	BOARD OF APPEALS
<b>HOWARD COUNTY DEPARTMENT OF</b>	:	HEARING EXAMINER
<b>PLANNING AND ZONING</b>	:	BA Case No. 820D
<b>IN SDP-19-025</b>		
<b>Appellee</b>		

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### **DECISION AND ORDER**

On August 19, 2025, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, conducted a hearing on the administrative appeal of Simpson Oaks CRP3, LLC (Appellant). Appellant is appealing the Department of Planning and Zoning's May 8, 2025 letter requiring the resubmittal of SDP-19-025 Cedar Creek Trail on or before June 22, 2025 or the application will become null and void in accordance with §16.156 of the Howard County Subdivision and Land Regulations. The Subject Property is located at 7600 Grace Drive, Columbia, Maryland. The appeal is filed pursuant to §130.0.B.4 of the Howard County Zoning Regulations (HCZR).

The Appellant certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Mr. Thomas Coale, Esq. appeared on behalf of Appellant Simpson Oaks CRP3, LLC. Mr. Robert Vogel, engineer, testified on behalf of the Appellant. Anwar Hasan, Neil Tiva, Shamioka Preston, and Golash Adadey testified in Opposition.

Appellant presented the following Exhibits:

1. Petition of Administrative Appeal
2. Approved Sketch Plan S-15-007
3. DPZ letter May, 8. 2025
4. DPZ Review Comments
5. D&O 4/6/15
6. D&O 11/10/16

### **BACKGROUND**

The approximately 66.8 acre property is located 200 feet east of Quiet Night Ridge, identified as 7600 Grace Drive, Columbia, Maryland (the Property). The Subject Property lies in Council District 4, and the 5th Election District, and is identified as Tax Map 35, Grid 21, Parcel/Lot 145, in the CEF-R (Community Enhancement Floating) Zoning District.

On April 6, 2016 the Zoning Board of Howard County approved the rezoning of the Subject Property from the PEC to the CEF-R Zoning District and approved the Concept

Plan. This approved Concept Plan included a pathway connectivity to the Robertson Nature Center. Upon subsequent review by Appellant (who purchased the Property from the original developer) it was determined that the development of the proposed pathway was not feasible due to geography, environmental issues, and location within the floodplain.

On November 10, 2016, the Zoning Board of Howard County granted an amendment to the 2015 Concept Plan by approving S-15-007 which contained minor amendments pertaining the realignment of the pathway connectivity in accordance with Zoning Regulations Sec. 121.0.L. Appellant next proceeded to prepare SDP-19-025 for approval. This approval process by DZP included much commentary and many (7) revisions to the original SDP.

On May 8, 2025 DPZ issued a letter requiring additional revisions to be submitted on or before June 22, 2025. The DPZ review comments, dated May 8, 2025 included, in pertinent part,

**GC#1, SDP 19025 SHT 01.pdf**

**Please provide a connection to the Robinson Nature Center as part of these plans.**

**Connection is required per the text of the ZB case's D&O referenced.**

**Trail Easement - Open Space Lot 140, SDP 19025 SHT 01.pdf**

The trail alignment on Open Space Lot 140 is outside the designated easement. For the Department of Recreation and Parks to maintain the trail on HOA open space, the easement must be revised to align with the trail. To accomplish this, the applicant should submit an Originals Only plat of revision to:

1. Modify the existing trail easement to align with the proposed trail.
2. Modify the forest conservation easement where it overlaps the proposed trail easement. Forest easement removed will need to be replaced onsite.

Robinson Nature Center, SDP 19025 SHT 01.pdf

Provide direct connection to Robinson Nature Center trail in accordance with Decision and Order ZB1104M and using one of the three options provided by Howard County Rec & Parks.

klstSP2, SDP 19025 SHT 07.pdf

Provide a sheet showing the connection required by community enhancement proffer between the subject trail and the trail system on Robinson Nature Center. Provide crossing improvements at the Grace/Cedar intersection including island modifications, ped signals, signal timing modifications if needed, striping and signing. OR provide a bridge over the Little Patuxent OR connect under the Cedar Lane Bridge over the Little Patuxent.

On June 9, 2025, Appellant noted the instant administrative appeal alleging that these review comments, and any other comments regarding the pathway connectivity, are in violation of S-15-007, approved by the Zoning Board of Howard County on November 10, 2016.

### **OPPOSITION**

Opposition testimony focused on the alleged lack of notice for the appeal hearing. Opposition was unaware of the approval of S-15-007 in 2016. They stated that the developer of their homes in Simpson Oaks had made them aware of the approval of the Concept Plan in 2015 but did not make them aware of the revision to the Concept Plan via the 2016 Zoning Board approval of the Sketch Plan, S-15-007, which realigned the pathway connectivity to Robinson Nature Center.

Notice provisions for administrative appeals are as follows:

#### **Sec. 2.203. - Notice to the public.**

**(a) Advertising.** The petitioner, at his or her own expense, shall advertise the date, time and place of the initial hearing in at least two newspapers of general circulation in Howard County. For variances in residential districts, the advertisement shall be published at least 15 days before the hearing. For all other petitions, the advertisement shall be published at least 30 days prior to the hearing. The Department of Planning and Zoning shall approve the proposed advertising before it is published.

**(e) *Hearings on Other Administrative Appeals.*** If the petitioner cannot post the property because the petitioner does not own the property, then the petitioner shall send a copy of the petition and written notification of the place, time and date of the hearing to the property owner and the adjoining property owners, and shall file an affidavit of written notification with the Clerk of the Board. The petitioner shall comply with the advertising requirements.

In accordance with §2.203(a) both The Baltimore Sun and The Washington Post certified that the required advertisement of the August 19, 2025 appeals hearing was published on July 20, 2025. In accordance with §2.203(a), Appellant filed an affidavit of written notification, attaching a copy of the Petition, of the place, time, and date of the hearing to the property owner and adjoining property owners. This affidavit is in the record and is dated August 20, 2025. Appellant testified that the required Petition and place, time, and date of the appeals hearing was sent to the only adjoining property owners, Howard County, Maryland and W.R. Grace.

### **STANDARD OF REVIEW**

The right to appeal an administrative decision is wholly statutory. *Howard County v. JJM, Inc.*, 301 Md. 256, 261, 482 A.2d 908, 910 (1984) (citing *Maryland Bd. V. Armacost*, 286 Md. 353, 354-55, 407 A.2d 1148, 1150 (1979); *Criminal Injuries Comp.*

*Bd. V. Gould*, 273 Md. 486, 500, 331 A.2d 55, 64 (19751); *Urbana Civic Ass'n v. Urbana Mobile Vill., Inc.*, 260 Md. 458, 461, 272 A.2d 628, 630 (1971).

Pursuant to Howard County Code Section 16.105, appeals to the Board of Appeals of decisions made pursuant to the Director of Planning and Zoning's administrative decision-making authority shall be heard in accordance with the Board of Appeal's Rules of Procedures. Subtitle 2.-Rules of Procedure of the Board of Appeals, Section 2.210 provides that administrative appeals such as the instant appeal the burden of proof is on the appellant to show that the action taken by the Administrative Agency was clearly erroneous, and/or arbitrary and capricious, and/or contrary to law. Per Howard County Code § 16.302(a) (jurisdiction of Hearing Examiner), when a matter is authorized to be heard and decided by the Board of Appeals, the matter will first be heard and decided by a Hearing Examiner. Hearing Examiner Rule of Procedure 10.2(c) assigns the burden of proof in an appeal from an administrative agency decision of showing by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law.

### **CONCLUSIONS OF LAW**

The instant administrative appeal is from SDP-19-025, requiring a revised SDP To incorporate the pathway connectivity to Robinson Nature Center required by the 2015 approval of a Concept Plan for the Subject Property. The review comments by DPZ ignore the subsequent approval by the Zoning Board of S-15-007 which realigned the proposed

pathway connection due to geographic and environmental conditions, and the original alignment being in the floodplain. Requiring the 2015 alignment is in violation of the approved 2016 alignment and any attempt to require the original alignment in the review and approval process of SDP-19-025 is in violation of law. Appellant has met its burden of showing that the requiring of adherence to a superseded plan by DPZ is clearly erroneous, arbitrary and capricious and contrary to law.

**ORDER**

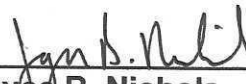
Based upon the foregoing, it is this 21st day of August, 2025, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That Appellant's appeal of the May 8, 2025 letter from DPZ requiring revisions to SDP-19-025 by June 22, 2025 or SDP-19-025 will be deemed null and void, for the Property identified as 7600 Grace Drive, Columbia, Maryland, in the CEF-R (Community Enhancement Floating) ) Zoning District, Council District 4, Election District 5, Tax Map 35, Grid 21, Parce/Lot 145, be and is hereby **GRANTED**,

And it is further, **ORDERED**, that SDP-19-025 be, and hereby is, **REMANDED** to the **Department of Planning and Zoning** for a review consistent with this **ORDER** including but not limited to the removal of any reference to the obsolete pathway connectivity contained in the Concept Plan approved by the Zoning Board of Howard County on April 6, 2015 .

**HOWARD COUNTY BOARD OF APPEALS**

**HEARING EXAMINER**

  
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**Joyce B. Nichols**

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the

appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.