

Circuit Court for Prince George's County  
Case No. CAL21-05643

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 155

September Term, 2022

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CARLTON STEWART, ET AL.

v.

GB MALL LIMITED PARTNERSHIP, ET AL.

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Graeff,  
Kehoe, C.,\*\*  
Zic,

JJ.

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Opinion by Kehoe, J.

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Filed: November 6, 2024

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

\*\* Kehoe, Christopher, now retired, participated in the hearing of this case while an active member of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the preparation of this opinion.

This is an appeal from a judgment of the Circuit Court for Prince George’s County, the Honorable Crystal D. Mittelstaedt, presiding, that dismissed a petition for a writ of administrative mandamus filed by Carlton Stewart and others<sup>1</sup> to review a decision of the Prince George’s County Department of Permits, Inspections, and Enforcement (the “Department”). Appellants present two issues, which we have reworded:

1. Did the circuit court err when it dismissed the petition of a writ of administrative mandamus?
2. Should this Court treat appellants’ petition for administrative mandamus as a common law mandamus action?<sup>2</sup>

Because the answer to each of these questions is no, we will affirm the judgment of the circuit court.

### Background

GB Mall Limited Partnership is the owner of the Beltway Plaza Shopping Center (the “Property”) in Greenbelt. The Property consists of 53.88 acres and is currently improved by a large shopping center. GB Mall proposes to redevelop the Property by demolishing

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<sup>1</sup> Mr. Stewart’s co-appellants are Angela Stewart, Jason Lee, Jeff Bailey, Joseph Yeboah, Rochelle Patterson, Empirian Village of Maryland, LLC, Joseph Kazarnovsky, Ralph Rieder, Giovanni Wade, Mouna Fall, Natalie Williams, and Mark Pauley. The appellees are GB Mall and the Department.

<sup>2</sup> The appellants frame the issues as:

1. Whether the Maryland Rules regarding Administrative Mandamus authorize Citizen-Petitioners’ judicial review action.
2. Whether Citizen-Appellants exhausted their administrative remedies.

most of the existing shopping center building and subdividing the Property into fifty-five separate parcels to accommodate 2,500 residential units and approximately 700,000 square feet of commercial and retail space.

The Property is located in the Mixed Use – Infill (M-U-I) District and is also in a Development District Overlay (D-D-O) District. Development proposals in Prince George’s County of the scale and complexity proposed by GB Mall and located in either or both of these zoning districts are subject to two procedurally distinct but substantively related administrative review and approval processes, namely, subdivision approval and site plan approval.<sup>3</sup> The County’s subdivision regulations are codified as Subtitle 24 of the Prince George’s County Code (“PGCC”) (2019).<sup>4</sup> The relevant site plan review and approval process is codified as Part 3, Division 9 of Subtitle 27 of the 2019 version of the County Code.

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<sup>3</sup> See Prince George’s County Code (“PGCC”) § 27-546.19 (M-U-I District) and PGCC § 27-548.19 (D-D-O District).

<sup>4</sup> The Prince George’s County Council adopted a revised Zoning Ordinance (Subtitle 27 of the County Code) and revised Subdivision Regulations (Subtitle 24) which became effective on April 1, 2022.

Section 27-1704(b) of the 2022 Ordinance provides that pending projects shall “continue to be reviewed and decided under the Zoning Ordinance and Subdivision Regulations in effect immediately prior to the effective date of the County Subdivision Regulations and Zoning Ordinance.” Appellees assert that § 27-1704(b) applies to GB Mall’s project and appellants do not argue otherwise. Consistent with § 27-1704(b), the parties cite to the 2019 version of the County Zoning Ordinance and Subdivision Regulations. We will do the same.

As part of the site plan review process, GB Mall must obtain the Department's approval of a stormwater management plan (also referred to as a "SWM plan") for its project. The County's stormwater management standards are found in Subdivision 2 (Stormwater Management Design Plans) of Division 3 (Stormwater Management) of the County's Water Resources Protection and Grading Code, which is codified as Subtitle 32 of the County Code.

Approval of a stormwater management plan is a three-step process. First, the property owner must submit a "concept plan," which is "[t]he first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project." PGCC § 32-171(a)(14). The second step is the "site development plan," which must "include[] the information necessary to allow a detailed evaluation of a proposed project." PGCC § 32-171(a)(60). The third is the final stormwater management plan, which must include "the information necessary to allow all approvals and permits to be issued by the Department." PGCC § 32-171(a)(33). PGCC § 32-182 sets out the information that must be submitted with each plan. Section 32-182 is a complicated statute. For our purposes, § 32-182 makes it clear that a site development plan requires significantly more information than what is required for a concept plan, and that a final stormwater management plan requires significantly more information than what is required for a site development plan. No grading or building permits may be issued until a "final stormwater management plan has been approved by the Department as meeting

all of the requirements of [Subdivision 2 of Title 32 of the County Code.]” PGCC § 32-184(a).

In 2020, the Prince George’s County Planning Board approved GB Mall’s preliminary subdivision plan, subject to eighteen conditions. Appellants filed a petition for judicial review. The circuit court affirmed the Board’s decision and the court’s judgment was affirmed by a panel of this Court. *Stewart v. Prince George’s County Plan. Bd.*, No. 38, Sept. Term, 2021, 2022 WL 971962, at \*9 (Md. Ct. Spec. App. Mar. 31, 2022), *cert. denied*, 479 Md. 472 (2022).

As part of the redevelopment review and approval process, GB Mall also submitted a detailed site plan for the project. The detailed site plan application was docketed as “DSP-20020” by the Prince George’s County Planning Board, which approved it after holding a hearing in which appellants participated. Among the findings made by the Planning Board in its resolution approving the detailed site plan was:

The site has an approved [Stormwater Management] Concept Plan 38318-2020-00, which is valid until April 27, 2024. Testimony was heard from experts on behalf of both project opponents and the applicant concerning stormwater facility design and functionality. The Planning Board noted, however, that stormwater analysis is undertaken at the time of preliminary plan of subdivision, not [at the time of detailed site plan review<sup>5</sup>], and a finding was made at that time that the existence of the approved stormwater concept plan met the requirements of the Subdivision Regulations. Further

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<sup>5</sup> The Board’s finding notwithstanding, PGCC § 27-273(14) requires that a site plan include “[a] stormwater concept plan approved or submitted for review pursuant to Section 4-322 of this Code.” (However, there is no § 4-322 in the County Code.)

evaluation, therefore, including approval of a final plan and any appeal of the concept plan, would fall within the purview of the Department of Permitting, Inspections and Enforcement. The Planning Board also noted that the County has the professional expertise to evaluate stormwater matters and is in the best position to address such matters.

The Planning Board’s decision was appealed to the Prince George’s County Council, sitting as the District Council. The District Council affirmed the Board’s decision. In its decision, the Council did not address the stormwater management concept plan. Owners and/or residents of nearby properties filed a petition for judicial review. The circuit court affirmed the District Council’s decision. The owners/residents filed an appeal. The circuit court’s judgment was affirmed by a panel of this Court. *Empirian Vill. of Maryland LLC v. GB Mall Ltd. P’ship*, No. 2239, Sept. Term, 2022, 2023 WL 7871462, at \*11 (Md. Ct. Spec. App. Nov. 16, 2023). This brings us to the case before us.

GB Mall submitted a stormwater management concept plan to the Department for its review and approval. On April 27, 2021, the Department issued a document titled “Stormwater Management Concept Approval” which approved a conceptual stormwater management plan submitted by GB Mall. This document stated in pertinent part:

**REQUIREMENTS:**

Technical Review is required for PUBLIC/PRIVATE Storm Drain/SWM Construction.

Type of Storm Drainage/SWM construction is PRIVATE.

These additional approvals are required: None.

These fees apply: REVIEW.

These bonds apply: None.

Required water quality controls: BIORETENTION,

Required water quantity controls: 10, 100 YEAR ATTENUATION(S).

A maintenance agreement is required.

No special conditions apply.

Required easements: None.

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CONDITIONS OF APPROVAL:

1. This project involves redevelopment of an existing developed site. Site shall be designed to treat for 100% WQ<sub>v</sub><sup>[6]</sup> of the impervious area within the proposed disturbed area and 100% WQ<sub>v</sub> and C<sub>pv</sub><sup>[7]</sup> for new impervious area, using ESD<sup>[8]</sup> practices and techniques.
2. At the time of building permit review, please provide the reviewer with a geotechnical report to determine underground water table as per CB-94-2004.
3. Landscape plans are required at Technical review.
4. SHA approval required.
5. This project will require a site development fine grading permit.
6. Adequacy analysis of the receiving conveyance system is required.
7. Project needs to be ADA compliant.

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<sup>6</sup> “WQ<sub>v</sub>” means:

The volume [of storage] needed to capture and treat 90 percent of the average annual rainfall at a development site. (Methods for calculating the water quality volume are specified in the Maryland Design Manual and the Prince George’s County Design Manual.)

PGCC § 32-171(a)(71).

<sup>7</sup> “C<sub>pv</sub>” is an acronym for “channel protection storage volume.” “Channel protection storage volume” means the volume used to design structural management practices to control stream channel erosion.” Md. Code Regs. 26.17.02.02B(6) (2024).

<sup>8</sup> “ESD” is an acronym for “environmental site design.” *Maryland Dep’t of Env’t v. Anacostia Riverkeeper*, 447 Md. 88, 112 (2016). “ESD” is defined as:

Using small scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. (Methods for designing ESD practices are specified in the Maryland Design Manual and the Prince George’s County Design Manual).

PGCC § 32-171(a)(27).

8. The project is the redevelopment of an existing shopping center. The site will be converted to mixed use such as multi-family residential apartments, commercial and retail use.

9. Additional conditions:

A) For Phase I: Prior to issuance of site development fine grading permit, the developer must post a cash bond in the amount of \$243,200.00 for 100-year quantity control SWM fee-in-lieu.

B) 100-year quantity control of providing 121,670 cu. ft. of storage volume for Phase I will be provided in Phase II of the project. Phase II, Phase III, and Phase IV 100-year quantity control volume will need to be determined.

C) For Phase 2 and beyond construct 10/100-year control (underground storage) for entire site in Phase 2, as shown on the concept plan.

Once the 10/100-year underground storage is built, the developer will be eligible for refund of the cash bond-[stormwater management] fee in lieu collected during Phase 1.<sup>[9]</sup>

(Formatting in original.)

Appellants filed a petition for judicial review of the Stormwater Management Concept Approval. The parties and the circuit court treated the petition for judicial review as a petition for administrative mandamus.<sup>10</sup> Appellees filed a motion to dismiss the petition, which was granted by the circuit court. This appeal followed.

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<sup>9</sup> The approval was signed by Rey De Guzman. There is nothing in the record extract or appellees' appendix that identifies Mr. De Guzman's position within the Department, but neither party asserts that he was acting outside of the scope of his authority.

<sup>10</sup> The Supreme Court of Maryland addressed an analogous situation in *Town of La Plata v. Faison-Rosewick LLC*, 434 Md. 496, 512 (2013). The Court stated:

where a particular action against an administrative agency was allegedly brought under a statutory judicial review provision . . . this Court has looked to the substance of the action, [holding] that it could be treated as a  
(footnote continued...)



### The Parties' Contentions

In their briefs, appellants present three reasons why the judgment of the circuit court should be reversed:

First, they concede that no State or local statute authorizes courts to review stormwater management concept plan approvals by the Department. However, they assert that the Department's decision to approve the concept plan was quasi-judicial in nature because:

[The Department] engaged—and was obliged to engage—in a fact-based review of a particular parcel of land wherein it reviewed, among other things, a vicinity map, a Natural Resources Inventory Plan, soil maps, topography maps, drainage areas, wetlands and watercourses, legal easements, 100-year floodplain delineation, proposed building improvements, hydrologic computations, limits of disturbance, *et cetera*. [the Department] reviewed GB Mall's plan and analyzed it with an administrative record. It applied its administrative responsibilities to the legal determination of whether it could authorize the SWM Plan.

To support this contention, appellants cite the following passages from *Maryland Overpak Corp. v. Mayor and City Council of Baltimore*, 395 Md. 16, 37 (2006):

In the land use and zoning context, the essential questions to be asked are: what property or properties are being examined, for what reason, and at whose behest? As we have previously noted, proceedings or acts that

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common law mandamus or certiorari action, and has exercised appellate jurisdiction.

*Id.* (quoting *Gisriel v. Ocean City Bd. of Supervisors of Elections*, 345 Md. 477, 500 (1997)); *see also O'Brien v. Bd. of License Comm'rs for Washington County*, 199 Md. App. 563, 585 (2011) (commenting that the procedures for judicial review proceedings and administrative mandamus actions "are virtually identical").

scrutinize individual parcels or assemblages for the consideration of property-specific proposed uses, at the owner’s or developer’s initiative, ordinarily suggest a quasi-judicial process or act.

The analysis of what constitutes a quasi-judicial action is therefore focused primarily on whether the action involves a specific property as opposed to the populace generally. The Court of Appeals has “held, in part, that the Board of Appeals’s proceeding was quasi-judicial in the sense that it evaluated an application for a special exception involving a particular applicant’s request for administrative authorization to engage in a *specific activity at a specific location*.” *Id.* at 39–40 (cleaned up, emphasis in original).

Second, appellants argue that they have exhausted their administrative remedies because there is no procedure by which they can obtain judicial review of the Department’s approval of GB Mall’s conceptual stormwater management plan. They state that they:

*tried* to have the Planning Board review the SWM Plan, and the Planning Board categorically rejected the mere pretense of even looking at it. As it stands, [because] there exists no statutory provision for review of [the Department]’s SWM Concept Approval . . . [appellants] are forced to rely on administrative mandamus under the Maryland Rules because the Prince George’s County Code lacks a method of internal review.

\* \* \*

Simply put, [the exhaustion of administrative remedies doctrine] exists to avoid jumping the gun before an agency has properly weighed in on a matter and all statutory avenues for pre-court review have been availed. In this case, all such criteria have been fulfilled. [The Department] has conducted [a] review of GB Mall’s documents and issued its decision, there is no statutory avenue to petition for additional appellate review by [the Department], and by the Planning Board’s statements no other entity in the County may analyze the SWM Plan except for [the Department], which has moved to dismiss solely on the grounds of failure to exhaust statutory remedies.

(Emphasis in original.)

Finally, appellants ask us to “treat this action as a common law mandamus action if [we find] that the decision was neither quasi-judicial nor legislative.” In support of this contention, they quote the Supreme Court’s opinion in *Town of La Plata v. Faison-Rosewick LLC*, 434 Md. 496, 511 (2013), as supporting the conclusion that the Department’s approval of GB Mall’s conceptual stormwater management plan was “a ministerial act (a legal duty) by recalcitrant public officials” and thus an appropriate decision for common law mandamus review.

For their part, appellees present several contentions as to why appellants are not entitled to either administrative or common law mandamus relief. We believe that two are dispositive. The first is that administrative mandamus relief is not available to appellants because the Department’s approval of the conceptual stormwater management plan was not a final decision by that agency. The second is that the remedy of common law mandamus is not available to appellants because the Department’s approval of the conceptual stormwater management plan was the result of a discretionary, as opposed to a ministerial, decision-making process.

#### The Standard of Review

Whether the circuit court erred when it granted GB Mall’s motion to dismiss is a question of law, which we review *de novo*. *Greater Towson Council of Cmty. Ass’ns v. DMS Dev., LLC*, 234 Md. App. 388, 408 (2017). In reviewing appellants’ petition for administrative mandamus, we must “presume the truth of all well-pleaded facts in the

complaint, along with any reasonable inferences derived therefrom. Dismissal is proper only if the facts and allegations, so viewed, would nevertheless fail to afford plaintiff relief if proven.” *Higginbotham v. Pub. Serv. Comm’n of Maryland*, 171 Md. App. 254, 264 (2006) (cleaned up) (quoting *Britton v. Meier*, 148 Md. App. 419, 425 (2002)).

### Analysis

#### A. Administrative Mandamus

Administrative mandamus is an action “for judicial review of a quasi-judicial order or action of an administrative agency where review is not expressly authorized by law.” Md. Rule 7-401(a).

In their briefs, appellants proceed on the assumption that the Department’s review of GB Mall’s conceptual stormwater management plan was a quasi-judicial procedure. We agree with them for solely purposes of analysis.<sup>11</sup>

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<sup>11</sup> Our reservation is based on the absence of information in the briefs, the record extract, and appellees’ appendix about the Department’s decision-making process. As appellees point out in their brief, quasi-judicial proceedings generally have two identifying traits:

- (1) the act or decision is reached on individual, as opposed to general, grounds, and scrutinizes a single property and
  - (2) there is a deliberative fact-finding process with testimony and the weighing of evidence.
- Normally, that requires a contested case hearing, so that evidence (as opposed to informal statements of general beliefs) may be presented, challenged, and analyzed, in order that reasonable credibility determinations can be made.

(footnote continued...)

In addition to showing that the Department’s decision was quasi-judicial in nature, appellants must also demonstrate that the Department’s decision approving the conceptual stormwater management plan was “final.” Writing for the Court in *Chesapeake Bay Foundation, Inc. v. Creg Westport I, LLC*, 481 Md. 325 (2022), Justice Booth explained:

It is a basic tenet of administrative law that where an administrative agency has primary or exclusive jurisdiction over a controversy, the parties to the controversy must ordinarily await a final administrative decision before resorting to the courts for resolution of the controversy. To be “final,” the order or decision must dispose of the case by deciding all question[s] of law and fact and leave nothing further for the administrative body to decide. Stated another way, ordinarily, an agency order is not final when it is contemplated that there is more for the agency to do.

*Id.* at 347–38 (cleaned up) (quoting, among other cases, *Town of Upper Marlboro v. Prince George’s County Council*, 480 Md. 167, 188 (2022); and *Maryland Bd. of Pub. Works v. K. Hovnanian’s Four Seasons at Kent Island, LLC*, 443 Md. 199, 215 (2015)); see also *Priester v. Baltimore County, Maryland*, 232 Md. App. 178, 196 (2017) (“The action of an administrative agency is final if it determines or concludes the rights of the parties, or if it denies the parties means of further prosecuting or defining their rights and

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*Kor-Ko Ltd. v. Maryland Dep’t of Env’t*, 451 Md. 401, 409 (2017) (cleaned up) (quoting *Maryland Bd. of Pub. Works v. K. Hovnanian’s Four Seasons at Kent Island, LLC*, 425 Md. 482, 515 (2012)).

It is not necessary for us to decide whether the Department’s decision-making process was a quasi-judicial proceeding because we are resolving appellants’ administrative mandamus contention on other grounds.

interests in the subject matter in proceedings before the agency, thus leaving nothing further for the agency to do.”) (quoting A. Rochvarg, *PRINCIPLES AND PRACTICE OF MARYLAND ADMINISTRATIVE LAW* 190 (2011)).<sup>12</sup>

We conclude that there is more for the Department to do with regard to GB Mall’s stormwater management plan. As we have explained, a conceptual stormwater management plan is the “first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.” *See* PGCC § 32-171(a)(14). The second step is approval of the “site development plan,” which is a plan “that includes the information necessary to allow a detailed evaluation of a proposed project.” PGCC § 32-171(a)(60). The final step is the “final stormwater management plan,” which includes “the information necessary to allow all approvals and permits to be issued by the Department.” PGCC § 32-171(a)(33).

Appellants assert that the conceptual stormwater management plan in this case is “final” because the Planning Board’s decisions to approve GB Mall’s preliminary plan of

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<sup>12</sup> In their reply brief, appellants assert that the Supreme Court’s analysis in *Creg Westport* stands for the proposition that:

[an administrative] decision is not final if it’s part and parcel to another final decision that can afford concurrent review of its constituent parts, yet in practice review of such a decision is not possible when challenging that final decision if the administrative bodies tasked with review refuse to review the subordinate decision and treat it as immutable.

Appellants do not point to language in the Supreme Court’s opinion that supports its assertion and we have found none.

subdivision and detailed site plan were premised upon the “the submission and/or approval of a SWM Concept Plan[.]” In our view, appellants’ contention misses the mark because GB Mall cannot obtain grading and building permits for its property until it has both an approved detailed site plan, PGCC § 27-548.25(a), and an approved final stormwater management plan. PGCC § 32-184(a).

#### B. Common Law Mandamus

Appellants contend that they have the right to relief based upon the doctrine of common law mandamus. They are wrong.

In *Faison-Rosewick*, the Supreme Court explained that:

Generally, mandamus is initiated as an original action used to compel inferior tribunals, public officials or administrative agencies to perform their function, or perform some particular duty imposed upon them which in its nature is imperative and to the performance of which duty the party applying for the writ has a clear legal right.

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[A] common law mandamus action is appropriate where the relief sought involves the traditional enforcement of a ministerial act (a legal duty) by recalcitrant public officials, but not where there is any vestige of discretion in the agency action or decision. Ministerial acts are duties in respect to which nothing is left to discretion and are distinguished from those allowing freedom and authority to make decisions and choices.

*Faison-Rosewick*, 434 Md. at 511–12 (cleaned up) (quoting, among other cases, *S. Easton Neighborhood Ass’n v. Town of Easton*, 387 Md. 468, 477 n.3 (2005), and *Talbot County v. Miles Point Prop., LLC*, 415 Md. 372, 397 (2010); and *Goodwich v. Nolan*, 343 Md. 130, 145 (1996)).

The relevant provisions of the Prince George’s County Code indicate that evaluation and approval of stormwater management plans is a process that involves the exercise of both professional expertise and discretion to determine whether the plan complies with relevant County requirements.

The standards for stormwater management plan review and approval are set out in Subtitle 32 (Water Resources Protection and Grading Code), Division 3 (Stormwater Management) Subdivision 2 (Stormwater Management Design Plans) of the Prince George’s County Code.<sup>13</sup>

One of the core concepts in the County’s regulatory scheme is that a stormwater management plan must use environmental site design (“ESD”) techniques to “mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.” PGCC § 32-171(a)(27). As we have explained, environment site design requires the use of

small scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

*Id.*

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<sup>13</sup> The County’s stormwater management program is both authorized and required by a statewide statutory mandate contained in Md. Code, Env’t § 4-202. The Maryland Department of the Environment has the authority to promulgate rules and regulations for local government stormwater management programs. Env’t § 4-203.



Additionally, in order for a stormwater management plan to be approved, the Department must conclude that ESD design techniques and practices were used to the “maximum extent practicable” (“MEP”) in preparation of the stormwater management plan. PGCC § 32-178(a)(1). Additionally, stormwater management plans

shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Maryland Design Manual and the Prince George’s County Design Manual. The MEP standard is met when channel stability is maintained, 100% predevelopment groundwater recharge is replicated, non-point source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.

*Id.*

These standards apply to conceptual stormwater management plan submissions, *see* PGCC § 32-182(a)(15), which require a conceptual stormwater management plan include “[a] narrative that supports the concept design and describes how ESD will be implemented to the MEP[.]” *Id.*

The remedy of common law mandamus does not apply in cases “where there is any ‘vestige of discretion’ in the agency action or decision.” *Faison-Rosewick*, 434 Md. at 511 (quoting *S. Easton*, 387 Md. at 477 n.3).

To repurpose a phrase from Justice Elena Kagan, if the analytical process that the Department is required to undertake before deciding whether to approve a conceptual stormwater management plan “does not count as [an exercise of at least a ‘vestige of

discretion’], we are hard pressed to know what would.” *Chaidez v. United States*, 568 U.S. 342, 353 (2013).

In conclusion, the circuit court did not err when it dismissed appellants’ petition for administrative mandamus. Based on the materials contained in the record extract and the appendix, appellants’ assertion that they have a right to a writ of common law mandamus is unconvincing.<sup>14</sup>

**THE JUDGMENT OF THE CIRCUIT  
COURT FOR PRINCE GEORGE’S  
COUNTY IS AFFIRMED. APPELLANTS  
TO PAY COSTS.**

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<sup>14</sup> We are aware that appellees raise other contentions in their briefs as to why the judgment of the circuit court should be affirmed. We will not address them. “[A]n appellate court should use great caution in exercising its discretion to comment gratuitously on issues beyond those necessary to be decided.” *Garner v. Archers Glen Partners, Inc.*, 405 Md. 43, 46 (2008).