

RESOLUTION

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 February 7, 2008, regarding Detailed Site Plan DSP-86116/14 for Waterside Subdivision, Lot 10, the Planning Board finds:

1. **Request:** This application proposes a boat pier extending into the Potomac River from a lot on which there is currently an existing single-family house. It appears that part of the pier and associated steps have already been constructed.

2. **Development Data Summary**

	<b>EXISTING</b>	<b>PROPOSED</b>
	R-R/L-D-O	R-R/L-D-O
Zone(s)		
Use(s)	Single-family detached house	Single-family detached house with accessory pier
Acreage	.52	.52
Dwelling units	1	1

3. **Location:** The site is located at 8209 Waterside Court in Fort Washington. This is part of Block A in the Waterside subdivision and is in Council District 8, Planning Area 80, in the Developing Tier.

**Surroundings and Uses:** On the north, east and south sides, the subject property borders other single-family houses in the Waterside subdivision. The Potomac River runs along the west side of the subject property. Fort Foote National Park is located approximately 750 feet southwest of the property. Additional National Park Service land (the Cagle Property) is located approximately 175 feet northeast of the property, while the edge of the National Harbor development is approximately 775 feet to the northeast.

**Previous Approvals:** Preliminary Plan of Subdivision 4-85186 was approved by the Planning Board on December 18, 1985. This was followed by Detailed Site Plan DSP-86116, which laid out the subdivision as it currently exists. Since that time, numerous minor revisions to the DSP have been approved by the Planning Director as the designee of the Planning Board. The following revisions have been filed and approved:

Case Number	Status	Nature of Revision
DSP-89116/01	Approved 6/19/90	Revise house footprints for houses in Block C
DSP-89116/02	Approved 8/15/90	Add decks for houses in Block C
DSP-89116/03	Approved 10/24/90	Revise front porches for houses in Block C
DSP-89116/04	Approved 8/25/95	Revise house footprints, grading, and retaining walls for houses in Block C
DSP-89116/05	Approved 8/11/95	Revise grading and LOD for lots in Blocks A and B
DSP-89116/06	Approved 3/21/02	Swimming pool for Lot 5, Block C
DSP-89116/07	Approved 4/4/03	Adjust house footprints in Block B
DSP-89116/08	Approved 11/06/03	Two monumental entrance features in Block B
DSP-89116/09	Approved 7/15/04	Deck for Lot 9, Block A
DSP-89116/11	Approved 12/09/04	Approve house for Lot 7, Block A
DSP-89116/12	Approved 11/22/04	Approve rear deck and front porch for Lot 6, Block C
DSP-89116/13	Approved 2/18/05	Swimming pool for Lot 8, Block A

This list shows that most of the revisions have involved houses in Blocks B or C, which do not affect the subject property in Block A.

Beginning with the preliminary plan, the lots adjacent to the Potomac River were subject to a conservation buffer (over the area within 100 feet of the mean high water line) and a trail easement (25 feet wide, running within the conservation buffer for public use). The lines demarcating the buffer and the easement on different plans have occasionally been inconsistent. Furthermore, at some time between 2000 and 2005, large amounts of the vegetation in the conservation buffer were cleared. There has also been unpermitted development on some lots in this block.

- Design Features:** The existing single-family detached house is located on the front portion of the property, which slopes down toward the river. The majority of the rear yard of the lot is within the conservation easement, which is defined as 100 feet from the mean high-tide line of the river. Within the conservation easement, a 25-foot-wide trail easement runs from north to south across the property. The trail easement is dedicated to public use as a pedestrian or bicycle trail and connects Fort Foote to the south with the National Park Service property north of the site. The buffer and easement appear to be correctly shown on the plan. There is also an existing sewer right-of-way running parallel to the trail easement.

The applicant proposes to construct a wooden boat pier into the Potomac River, extending 349 feet from the center of the property's shoreline into the river. The pier would be accessed on the landward side by a set of steps. The construction of the pier would result in approximately 1,160 square feet of disturbance in the conservation easement. The pier would have no direct impact on the trail easement.

## COMPLIANCE WITH EVALUATION CRITERIA

### 5. **Zoning Ordinance:**

In the L-D-O Zone, a private pier is a permitted use if it is accessory to an individual single-family dwelling within a subdivision that does not provide a community pier. Boats using the pier are only to be those operated by the residents of the house or their guests. The Waterside subdivision does not provide a community pier, so the private pier is a permitted use, subject to the limitation that it may only be used by the residents and guests of the house.

The L-D-O Zone prohibits development on slopes greater than 15 percent, except as provided in the Conservation Manual. The applicant's submitted site plan claims that steep and severe slopes do not exist on the site. It appears from the contour lines shown on the plan that slopes exceed 15 percent on the western side of the site, where the land slopes down to the river; however, this slope is not considered to be a steep or severe slope because of its limited width.

The L-D-O Zone allows a maximum impervious surface ratio of 15 percent. It may be increased to 25 percent for a lot less than one acre, if that lot is within a preliminary plat of subdivision approved after December 1, 1985, when the overall amount of impervious surface within the entire subdivision does not exceed 15 percent. The proposed plan shows 16.69 percent impervious surface coverage, which would be permissible provided that the overall Waterside subdivision has less than 15 percent lot coverage.

The entire subdivision, recorded in the approved final plats (5-87108 and 5-87109), comprises 36.94 acres. Of that amount, approximately 2.27 acres are in dedicated rights-of-way, 18.77 acres are in private lots, 15.73 acres are held by the homeowners association, and .19 acre is owned by the M-NCPPC. The land owned by the homeowners association and by M-NCPPC is undeveloped, while the 2.27 acres of right-of-way are largely but not entirely covered by impervious surface. The private lots have varying amounts of lot coverage.

Fifteen percent of the entire subdivision constitutes 5.54 acres of impervious surface. Assuming that the 2.27 acres of right-of-way were entirely impervious, the private lots could include up to a maximum of 3.27 acres of impervious surface, or 17.4 percent of the private lots, while still keeping the overall subdivision below 15 percent impervious surface limit. Because the public right-of-way is not entirely occupied by impervious area and there are several large lots within the subdivision with a very small percentage of lot coverage, the entire subdivision clearly contains less than 15 percent impervious surfaces.

Normal development standards of the R-R Zone have been met.

6. **Landscape Manual**

As a residential lot, the subject property must comply with Section 4.1 of the *Landscape Manual*, requiring at least two shade trees and one ornamental or evergreen tree on the site.

The proposed planting plan more than meets this requirement. Additional plantings are proposed in order to meet the necessary mitigation and afforestation requirements of the Chesapeake Critical Area, as noted below.

The plan shows proposed plantings within the conservation buffer, and no plantings are shown within the trail easement. This is an appropriate location for plantings because it contributes to the reforestation of the conservation buffer while not obstructing the trail easement.

REFERRALS

7. **National Park Service:** In a memorandum dated December 12, 2007 (Rosenstock to Lindsay), the National Park Service made the following comments:

We have great concern regarding this proposal. From a field visit, it is obvious that work was already begun on the project without approval. It crosses a dedicated trail easement, and an adjacent conservation easement has obviously been cleared.

Further, the “woodland tabulations” are erroneous, steep and severe slopes do exist on-site, and inappropriate nonnative species are proposed in the planting plan. The applicant should be required to remove all unpermitted construction and prepare a restoration planting plan for the cleared conservation easement, prior to resubmission of a corrected and revised proposal.

**Urban Design comment:** As M-NCPPC does not have the authority to require the removal of unpermitted construction, the applicant was requested to provide a revised proposal that would replant the cleared conservation easement. The revised plans, submitted January 19, 2008, show additional plantings within the conservation buffer and utilize native species. Staff believes that the revised plans are in conformance with the National Park Service’s recommendations.

The plan claims (General Note 18) that steep and severe slopes do not exist on the site. There is certainly an area where the ground slopes more than 15 percent on the western side of the site, where the property slopes down rapidly towards the water level. However, at less than 20 feet in width, this highly sloped area is judged to be too narrow to constitute a steep or severe slope.

8. **State of Maryland Critical Area Commission:** In a memorandum dated December 12, 2007 (Schmidt to Lindsay), the Critical Area Commission made the following comments:

- a. The Critical Area Commission typically recommends 2:1 mitigation for the length and width of the access within the 100-foot buffer. Therefore, this office recommends 2,320 square feet of mitigation be provided.
- b. Based on my review of the mitigation provided, the applicant is providing 1,150 square feet of mitigation. Additional trees and shrubs will need to be included in the planting plan.
- c. Additionally, the lot must meet the 15 percent afforestation requirement for the limited development overlay. Based on the lot size of 22,636 square feet, the 15 percent threshold is 3,395 square feet.
- d. The Critical Area Commission Forest Mitigation Policy recommended mitigation consists of a mix of trees and shrubs using the following credit system: one tree for every 100 square feet or one tree plus two understory trees or three shrubs for every 400 square feet of mitigation required.
- e. Mitigation for impacts to the buffer must be accommodated to the maximum extent possible in the 100-foot buffer. It would appear all of the mitigation could be accommodated within the 100-foot buffer. The applicant may want to consider the addition of shrubs in some areas if they also want to maintain some views.
- f. This office recommends that any changes made to the conservation plan regarding mitigation impacts also be reflected on the detailed site plan.

**Urban Design comment:** The revised plans submitted by the applicant on January 19, 2008, show additional plantings within the 100-foot buffer as recommended by the Critical Area Commission. However, it appears that the amount of planting may not be sufficient to meet the Critical Area Commission's afforestation requirement.

The guidelines given by the Critical Area Commission indicate that 2,320 square feet of mitigation should be provided, which would require a total of six trees, plus 12 understory trees or 18 shrubs. The plan, with eight trees, two understory trees, and 24 shrubs, meets the mitigation requirement. The proposed plants are all species native to the region.

In addition, the site must meet the 15 percent afforestation requirement. The site plan proposes 4,400 square feet of forested area, but the forested area must include an adequate number of plantings. The required 3,395 square feet of forested area must be demonstrated through an adequate amount of planting material. Under the critical area regulations, each tree may be counted for 218 square feet of afforestation, and each shrub may be counted for 21.8 square feet of afforestation. The plantings proposed by the applicant thus total 2,703 square feet of

afforestation. An additional 692 square feet of afforestation must be demonstrated. The additional plantings may be three trees, 32 shrubs, or a combination of trees and shrubs that fulfills the balance of the afforestation requirement.

9. **Permits Section:** In a memorandum dated December 13, 2007 (Chaney to Lindsay), the Permit Review Section outlined several comments, which have all been addressed by the submission of revised plans or by this report.
10. **Environmental Review:** Because of the site's location in the critical area, the detailed site plan has been reviewed concurrently with Conservation Plan CP-07010 and is consistent with that plan as reviewed by the Environmental Planning Section. The site is exempt from the Woodland Conservation Ordinance because of its size and its location within the critical area. The subdivision also predates the Woodland Conservation Ordinance, so there is no approved tree conservation plan.
11. **Department of Parks and Recreation:** In a memorandum dated January 2, 2008 (Solomon to Hirsch), the Department of Parks and Recreation noted that the plan proposed tree planting within the boundaries of the hiker/biker easement. DPR believes that this is an inappropriate location for replanting. This comment was made in reference to the originally submitted plan. The revised plans received on January 18, 2008, do not show planting within the trail easement.
12. **Trails Referral:** In a memorandum dated January 28, 2008 (Shaffer to Lindsay), the Trails Coordinator offered the following comments:

A public use trail easement was established at Waterside through approved Site Plan SP-86116. The easement is reflected on approved final record plats NLP-132-94 and NLP-132-95 (Waterside, Plats One and Two). The easement is marked and labeled on the final record plats and the approved detailed site plan as a "25-foot hiker/biker easement". This easement is shown within the conservation buffer on the final record plat. It should also be noted that the Waterside easement is labeled as a "25-foot hiker/biker trail easement" not specifically to M-NCPPC (see approved SP-86116). This easement extends across Lots 7-12 and the HOA land along Waterside Court. The easement appears to be shown correctly on the submitted detailed site plan. The subject application reflects native plantings within the conservation buffer. Re-vegetation of the buffer is shown outside of the trail easement.
13. The detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9 of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 27-285 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 Detailed Site Plan

DSP-86116/14, subject to the following conditions:

1. Prior to signature approval of the detailed site plan, the applicant shall revise the plans as follows:
  - a. Provide dimensions on the plan to demonstrate that the existing house meets the setback requirements of the R-R Zone.
  - b. Provide an additional three trees, 32 shrubs, or a combination of trees and shrubs that fulfills the balance of the afforestation requirement. These additional plantings shall be provided within the conservation buffer, outside of the trail easement. Trees shall not be planted within the sanitary sewer right-of-way. All plans shall be appropriate native species.
  - c. Correct Critical Area Note 3 to reflect the correct amount of proposed forested area based on the plantings that have been provided.
  - d. Provide a detail of the landward end of the pier to clarify the arrangement of the steps and rip-rap, and the height of the pier.
  - e. The trail easement shall be marked and labeled consistent with previously approved Final Record Plats NLP 132-94 and NLP 132-95.
  - f. Show the location of all existing trees and vegetation.
  - g. Correct the label for two Basswood trees that are currently shown as "C.O."
  - h. Provide a calculation on the plan to show that the 15 percent afforestation requirement has been met.
  - i. Remove General Note 15, referring to an approved tree conservation plan.

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.

\* \* \* \* \*

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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns, Cavitt and Parker voting in favor of the motion at its regular meeting held on Thursday, February 7, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6<sup>th</sup> day of March 2008.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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