

R E S O L U T I O N

WHEREAS, on March 22, 2022, Harbor View Development, LLC filed an application for approval of a Conservation Plan for 1.73 acres within the Intensely Development Overlay (I-D-O) Zone of the Chesapeake Bay Critical Area, as a companion case to Conceptual Site Plan CSP-21004, for the purpose of constructing a 12-foot-wide shared-use path, with two-foot cleared space on either side, one stormwater management facility, existing utility easements, proposed utility connections, and a picnic pavilion; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-21006 for National View was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on May 26, 2022, for its review and action in accordance with Zoning Ordinance, Subtitle 27, Prince George's County Code; and

WHEREAS, a new Zoning Ordinance, Subtitle 27, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 27-1703(a) of the Zoning Ordinance, development applications submitted and accepted as complete before April 1, 2022, but still pending final action as of that date, may be reviewed and decided in accordance with the Zoning Ordinance in existence at the time of submission and acceptance of the application; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed this application under the Zoning Ordinance in existence prior to April 1, 2022; and

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 5B-113 of Subtitle 5B and Section 27-548.11 of Subtitle 27, Prince George's County Code, the Prince George's County Planning Board APPROVED Conservation Plan CP-21006 for National View with the following condition:

1. Prior to certification of the conservation plan (CP), the applicant shall:
  - a. Correct the lot coverage information of the underlying zone on Table A of Chesapeake Bay Critical Area Overlay Zone.
  - b. Have the applicant sign the owner notification block.
  - c. Revise tables and plan view to show the same consistent Chesapeake Bay Critical Area, proposed woodland clearing, and preservation area totals throughout the plan.
  - d. Revise General Note 19 to reference only specimen trees located within the Chesapeake Bay Critical Area.

- e. Revise General Note 21 to read, “No increase in lot coverage within the 100-foot critical area buffer. No critical area buffers are located on-site.”
- f. Update the revision blocks.
- g. Execute and record a Chesapeake Bay Conservation and Planting Agreement. The agreement shall be reviewed by the County, prior to recordation. The applicant shall provide a copy of the recorded agreement to the Prince George’s County Department of Permitting, Inspections and Enforcement, and the Liber/folio shall be shown above the site plan approval block in the following note: “The Chesapeake Bay Conservation and Planting Agreement for this property is found in Plat No. L. \_\_\_ F. \_\_\_\_.”
- h. Record a conservation easement for the proposed mitigation plantings and the existing developed woodland preservation area in the Prince George’s County Land Records. The easement document shall be reviewed by the County, prior to recordation. The Liber/folio shall be shown above the site plan approval block in the following note: “The conservation easement for this property is found in Plat No. L. \_\_\_ F. \_\_\_\_.”

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George’s County Planning Board are as follows:

1. **Request:** The subject application is a conservation plan for the 1.73-acre portion of the property in the Intensely Development Overlay (I-D-O) Zone of the Chesapeake Bay Critical Area (CBCA), where only a 12-foot-wide shared-use path, with two-foot cleared space on either side, one stormwater management (SWM) facility, existing utility easements, proposed utility connections, and a picnic pavilion are proposed.

A companion Conceptual Site Plan, CSP-21004, was also approved by the Planning Board (PGCPB Resolution No. 2022-65) for a mixed-use development consisting of up to 1,870 multifamily dwelling units, including up to 485 units for seniors and approximately 289,000 square feet of office and commercial/retail space.

2. **Location:** The subject site is located approximately 1,000 feet north of I-95/495 (Capital Beltway) between the Woodrow Wilson Bridge and MD 210 (Indian Head Highway), and on the west side of Bald Eagle Drive. The northern portion of the site is within the municipal boundary of the Town of Forest Heights.

3. **Development Data Summary:**

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	RMF-48 (prior M-X-T)/I-D-O	RMF-48 (prior M-X-T)/I-D-O
Use(s)	Vacant	Residential, Commercial/Retail, and Office
Gross Acreage	20.09	20.09
Of which in CBCA	1.73	1.73
Net Acreage	18.36	18.36
Total Gross Floor Area (GFA)(sq. ft.)	-	1,926,000
Of which Office & Commercial	-	289,000
Residential	-	1,637,000
Total Multifamily Dwelling Units	-	1,465–1,870
Of which Senior living	-	485

4. **Surrounding Uses:** The subject property, consisting of two sites, Forest Heights Subdivision, Section 16, within the Town of Forest Heights, and the adjoining Butler property to the south, is located on the west side of Bald Eagle Drive. The generally triangular site is bounded to the north by existing single-family detached homes in the Forest Heights Subdivision in the Residential, Single-Family-65 Zone, to the east by National Park Service property in the Agriculture and Preservation Zone, and to the west by National Park Service property in the Reserved Open Space Zone.

5. **Previous Approvals:** The Forest Heights Subdivision, Section 16, within the Town of Forest Heights, in the northern part of the site, was platted in April 1956 and is comprised of Lots 61–91 in Block 122, Lots 13–24 in Block 123, and Lots 8–14 in Block 124, recorded in the Prince George’s County Land Records as Forest Heights, Section 16 at Plat Book 28, Page 5. The single-family lots on this site were never developed and the site has remained vacant.

The Butler House property, in the southern part of the site, is mostly wooded but has two historic residences and an existing electric utility right-of-way. The site is comprised of Parcels 26, 32, 33, 35, 36, and 37, which are not mapped within the Forest Heights municipal boundary. This section contains the Butler House (PG:76A-014/National Register), a Prince George’s County historic site that was designated in 1981 and was listed in the National Register of Historic Places in March 2005. The Butler House property is adjacent to Mount Welby (PG:76A-013/National Register), also a Prince George’s County historic site (designated in 1981), that is owned by the National Park Service and located within the Oxon Cove Farm. The Oxon Cove Farm property was listed in the National Register of Historic Places in September 2003. At least four outbuildings were located on the subject property from approximately 1965 until 1998, when the outbuildings were demolished.

On October 26, 2021, the Prince George's County District Council approved (via Zoning Ordinance No. 6-2021) Zoning Map Amendment A-10055, to rezone the subject site from One-Family Detached Residential (R-55) and Rural Residential (R-R) to the Mixed Use-Transportation Oriented (M-X-T) Zone, with five conditions.

6. **Design Features:** The narrow triangular site is on the west side of the constructed Bald Eagle Drive, which provides direct vehicular access to the proposed conceptual seven buildings. From north to south, the property depth increases, and the building footprints become larger. Buildings A, B, and C occupy the southern portion of the site with a rear loop road and a shared private street between Buildings B and C. Moving further to the north are Buildings D and E, with a private street between them. In the northern part, outside of the I-D-O Zone, is Building F, which is connected to Building E, and shares a looped road with Building G. The northernmost tip of the site is located in the I-D-O Zone and is preserved as open space with only a 12-foot-wide shared-use path running through it, connecting to an off-site trail system. The buildings range from 5 to 18 stories high and conceptually indicate roof decks, rooftop amenity spaces, outdoor plazas, internal parking garages, trash, and loading spaces.

For CP-21006, except for the 12-foot-wide shared-use path with two-foot cleared space on either side, a 300-square-foot picnic pavilion, and a stormwater management (SWM) facility, most of the 1.73-acre part of the site is preserved as open space. Total lot coverage in this area is proposed at 12.1 percent. Since there is no maximum lot coverage regulation in the I-D-O Zone, this proposed lot coverage is acceptable. The lot coverage information in Table A of the CP, regarding the underlying zoning requirements, is not right, because the M-X-T Zone does not have a lot coverage requirement. All development standards will be approved with the detailed site plan (DSP). A condition has been included herein requiring the applicant to correct the lot coverage information on Table A, prior to certification of CP-21006.

## COMPLIANCE WITH EVALUATION CRITERIA

7. **The Requirements of Chesapeake Bay Critical Area Ordinance (Subtitle 5B) and the Chesapeake Bay Critical Area Overlay Zones (Subtitle 27):** The site is located within the I-D-O Zone and is therefore subject to CBCA regulations. The purposes of the I-D-O Zone, as outlined in Section 27-548.13 of the Zoning Ordinance, are to maintain or, if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay from developed areas; conserve and enhance fish, wild and plant habitats; promote new residential, commercial, and industrial land uses in accordance with development intensity limits designated for the I-D-O Zone, and to accommodate existing residential, commercial, or industrial land uses within the Chesapeake Bay Critical Area. Since there is only one shared-use path, one SWM facility, existing utility easements, proposed utility connections, and a picnic pavilion in the 1.73-acre I-D-O Zone area, the proposed development meets the purposes for the zone.

- a. **Chesapeake Bay Critical Area Ordinance (Subtitle 5B):** The regulations concerning the impervious surface, stormwater, slopes, and other provisions for new development in the I-D-O Zone are contained in Subtitle 5B of the Prince George's County Code, as follows:

**Section 5B-113, Intensely Development Overlay (I-D-O) Zones**

- (e) **Development standards. The following development standards must be demonstrated within the I-D-O Zone:**

- (1) **For redevelopment plans, opportunities to reduce impacts on water quality generated by existing development shall be analyzed;**

This project is a new development and not a redevelopment plan. However, all development proposed on the portion of the property is outside of the I-D-O Zone. No regulated environmental features or primary or secondary buffers are located within the CBCA portion of the property. One specimen tree, a 30-inch diameter at breast height White Oak, which is in poor condition, is proposed to be removed and has no impacts on water quality.

- (2) **Urban (BMPs) for stormwater treatment shall be considered and, where appropriate, implemented as part of all plans for development and redevelopment;**

The portion of the site within the I-D-O Zone will have stormwater facilities. The impervious surface area will be approximately 12.1 percent.

- (3) **Stormwater shall be addressed in accordance with the following provisions:**

(A) **Development or redevelopment projects shall use technologies as required by applicable ordinances in order to minimize adverse impacts to water quality caused by stormwater.**

(B) **In the case of redevelopment, if these technologies do not reduce pollutant loadings measured by use of the keystone pollutant method by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided. Guidance for compliance with this requirement is provided in the Critical Area 10% Rule Guidance Manual - Fall 2003 and as may be subsequently amended.**

- (C) In the case of new development, offsets shall be used if they reduce pollutant loadings by at least 10 percent of the pre-development levels. Guidance for compliance with this requirement is provided in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance - Fall 2003 and as may be subsequently amended.**
- (D) Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring or other computation of mitigation measures. Guidance regarding offsets is provided in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance - Fall 2003.**

An unapproved SWM concept plan was submitted with the subject application. Currently, SWM Concept Plan, 49501-2021-00, is under review by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) Site Road Section. Since this site is located within the I-D-O Zone, DPIE is required to review for the 10 percent pollutant reduction requirement. The SWM concept plan within the CBCA proposes stormwater to be directed to an underground storage treatment facility and into grass swales. Submittal of an approved SWM concept plan and approval letter showing the proposed buildings, interior roads, and surface parking will be required, prior to Type 1 tree conservation plan (TCP1) and CP certification.

A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded, prior to certification approval for development of the site. Review of the Conservation and Planting agreement falls under the purview of DPIE.

A conservation easement will be required for this site to preserve the existing developed woodlands and the mitigation plantings area. A metes and bounds description must accompany the easement. Review of the easement falls under the purview of DPIE.

- (4) There is no Critical Area lot coverage maximum in the I-D-O, however, where practicable, permeable areas shall be established in vegetation, and whenever possible, redevelopment shall reduce existing levels of pollution.**

A review of the plan and Tables B and B-1 (CBCA Lot Coverage) demonstrates that the development proposes 9,836 square feet of lot coverage, which is 12.1 percent of the site. There is no lot coverage maximum in the I-D-O Zone, therefore, the proposed lot coverage is acceptable.

**(5) Areas of public access to the shoreline, such as foot paths, scenic drives and other public recreational facilities, should be maintained and, if possible, encouraged to be established within the I-D-O.**

The site is sandwiched between the existing residential neighborhood and Oxon Cove Park. There is no shoreline, nor access to it located on this property.

- b. **Chesapeake Bay Critical Area Overlay Zones (Subtitle 27):**  
Section 27-548.16 and Section 27-548.17 establish requirements regarding uses and regulations in the CBCA Overlay Zones.

Specifically, Section 27-548.16 states that uses allowed in the CBCA are the same as those allowed in the underlying zones, except as modified in the Table of Uses. The proposed commercial/retail component is not water-dependent and is located outside of the I-D-O Zone; therefore, it is permitted.

Section 27-548.17 establishes additional regulations on density, maximum impervious surface ratio, and slopes. For the I-D-O Zone, the density and maximum impervious surface ratio are the same as underlying zone, and there is no regulation for slopes. In this case, all proposed uses are outside of the I-D-O Zone and the proposal meets all requirements.

8. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized, as follows:

- a. **Environmental Planning**—The Planning Board has reviewed and adopts a memorandum dated April 25, 2022 (Schneider to Zhang), incorporated herein by reference, which provided a review of CSP-21004, TCP1-009-2022, and CP-21006 for conformance with requirements of the I-D-O Zone and the provisions of the WCO. Some findings have been included above and additional findings are summarized, as follows:

**Soils/Unsafe Soils:** According to the U.S. Department of Agriculture, Natural Resources Conservation Service, and Web Soil Survey, the Butler Tract area contains the following soil types: Beltsville silt loam, Beltsville–Urban land complex, Sassafra and Croom soils, and Sassafra sandy loam series. Neither Marlboro clay nor Christiana complex occur in this area.

The single lot area in the north contains the following soil types Croom–Urban land complex, Sassafras and Croom soils, and Udorthents soil series. Neither Marlboro clay nor Christiana clay occur in this area.

The site elevation varies significantly, sloping down toward north in elevation, approximately elevation 196 to elevation 40. Mass grading and site retaining walls are proposed. In communication with DPIE reviewers, a geotechnical report is required to verify the subsoil conditions and the slope stability. A global stability analysis on cross sections of the proposed retaining walls is required if the wall height is taller than 10 feet, or taller than 6 feet with 3H:1V backslope. Because of the mass grading of the site, the subject application area is required to submit a geotechnical soils investigation report, prior to CP certification.

**Stormwater Management:** An unapproved SWM Concept Plan (49501-2021-00) was submitted with the subject application. Currently, the SWM concept plan is under review by the DPIE Site Road Section. The SWM concept plan proposes stormwater to be directed into 18 bioretention facilities and 6 storm filters. Submittal of the approved SWM concept plan and letter showing the proposed buildings, interior roads, and surface parking will be required, prior to TCP1 certification.

The Planning Board approved CP-21006, subject to conditions that have been included in this resolution.

- b. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE)**—The Planning Board has reviewed and adopts a memorandum dated May 23, 2022 (Giles to Zhang), included herein by reference, in which DPIE stated that Site Development Concept Plan 49501-2021-0 is under review and approval is required. This concept may be updated at the time of preliminary plan of subdivision or DSP to address road alignments, private road access, right-of-way dedication for public streets, public utility easements, detailed analysis of stormwater management, outfall analysis, and private roads designed as per Section 24-128 of the Subdivision Regulations. The rest of the comments will be enforced through DPIE’s separate permitting process.
- c. **Critical Area Commission (CAC)**—The Planning Board received an email from the CAC, dated April 25, 2022, incorporated herein by reference, which indicated that they do not oppose the application, but stated that “The project must comply with all IDO requirements, including the 10 percent pollutant reduction requirement.”

BE IT FURTHER RESOLVED, that an appeal of the Planning Board’s action must be filed with Circuit Court for Prince George’s County, Maryland within thirty (30) days following the adoption of this Resolution.

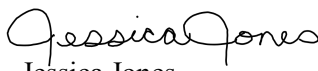
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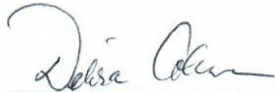
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Geraldo, seconded by Commissioner Doerner, with Commissioners Geraldo, Doerner, and Shapiro voting in favor of the motion, with Commissioner Bailey temporarily absent, and with Commissioner Washington absent at its regular meeting held on Thursday, May 26, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of June 2022.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

PAS:JJ:HZ:rpg



Approved for Legal Sufficiency  
M-NCPPC Office of General  
Counsel  
Dated 6/9/22