



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 11-33

File No. CP-10002

R E S O L U T I O N

WHEREAS, William Potts is the owner of a 0.1148-acre parcel of land in the 17th Election District of Prince George's County, Maryland, and being zoned One-Family Detached Residential (R-55); and

WHEREAS, on October 21, 2010, William Potts filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of constructing an addition to a single-family detached residential structure in the Chesapeake Bay Critical Area (CBCA); and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-10002 for Holladay Company's Addition, Lots 4 and 5 (Potts Residence), 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 April 28, 2011, for its review and action in accordance with Zoning Ordinance, Subtitle 27, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on April 28, 2011, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 27-548.11 of Subtitle 27, Prince George's County Code, the Prince George's County Planning Board further APPROVED Conservation Plan CP-10002, Holladay Company's Addition, Lots 4 and 5 (Potts Residence) with the following conditions:

1. The following revisions shall be made to the conservation plan, or information provided, prior to signature approval.
 - a. Add a note to the site plan indicating that the site is within the One-Family Detached Residential (R-55) Zone and Development District Overlay (D-D-O) Zone of the Gateway Arts District.
 - b. Revise the conservation plan and associated notes to indicate that the maximum lot coverage permitted is 45 percent, pursuant to the provisions of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District*.
 - c. Revise the plan to indicate the walkways as existing and to remain.

- d. Revise the limit of disturbance to include the area disturbed by the removal of the concrete slabs on the back of the lot.
- e. Revise the calculations for disturbed area.
- f. The site plan shall include a chart indicating that the ten percent phosphorus removal requirement is being met with the planting of five trees.
- g. Provide a planting plan and schedule for all of the proposed plantings.
- h. Revise Note 14 on the conservation plan to state, "A critical area primary buffer area is not present on this site."
- i. Revise Note 21 to state, "The property is located within the North Brentwood National Register Historic District 68-061. No historic sites or resources abut the subject property."
- j. Add the following note:

"The Conservation Agreement that commits the current and future property owners to maintain the property as shown herein has been recorded in the land records of Prince George's County at _____."

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

- 1. **Zoning Ordinance:** The conservation plan (CP) application has been reviewed for compliance with the Prince George's County Zoning Ordinance as follows:

Section 27-548.11, Conservation Plan and Conservation Agreement Required

- (c) **Where no subdivision is required, prior to the approval of a building or grading permit within the Chesapeake Bay Critical Area Overlay Zones, a Conservation Plan shall be submitted in accordance with Subtitle 5B for approval by the Planning Board or its authorized representative. The Planning Board shall approve the Conservation Plan prior to the issuance of a grading or building permit, unless waived in accordance with the provisions of Subtitle 5B.**

The site plan has been submitted in accordance with the above requirement.

Section 27-548.12, Uses

The uses allowed on land in the Critical Area Overlay Zones shall be the same as those allowed in the underlying zone in which the land has been classified.

The development proposal is for a single-family development in the R-55/D-D-O Zones. The R-55 Zone regulations are amended by the D-D-O Zone. The residential use is permitted in the D-D-O Zone.

Section 27-548.13, I-D-O (Intense Development Overlay) Zone.

(a) Purposes.

(1) The purposes of the I-D-O Zone are to:

- (A) Accommodate existing residential, commercial, or industrial land uses within the Chesapeake Bay Critical Area;**
- (B) Promote new residential, commercial, and industrial land uses in accordance with development intensity limits designated for the I-D-O Zone in this Subtitle;**
- (C) Conserve and enhance fish, wildlife, and plant habitats; and**
- (D) Improve the quality of runoff that enters the tributary streams of the Chesapeake Bay from developed areas.**

The subject development is an addition to an existing single-family structure in the Chesapeake Bay Critical Area. One purpose of the I-D-O Zone is to accommodate existing residential uses. The Planning Board finds that the proposal is not in conflict with the purpose of the I-D-O Zone.

Section 27-548.17 (b) Regulations

	Allowed*	Proposed
Maximum Density (units per acre)	6.70	n/a
Maximum CBCA Lot Coverage	45%	36.6%
Maximum Lot Coverage	45%	29.6%

* Within the I-D-O Zone, the requirement is the same as the underlying zone.

The Gateway Arts District permits lot coverage of 45 percent in the R-55 Zone. It is noted that the amount of allowable lot coverage was incorrectly calculated on the conservation plan at 30 percent. The submitted conservation plan shows the removal of some existing walkways and proposes their replacement with sand and mulch to meet a lower lot coverage percentage. This is not a typical treatment for walkways in urban areas. Because the allowable lot coverage in the Gateway Arts District is actually 45 percent, the removal and replacement of the walkways is not necessary. The Planning Board finds that the conservation plan shall be revised to show the walkways as existing and to remain.

2. **Chesapeake Bay Critical Area (CBCA):** In addition to the requirements of the Zoning Ordinance, Subtitle 5B governs development within the CBCA. The Planning Board adopts the following findings:

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;**

The Planning Board finds that opportunities to reduce impacts on water quality have been reviewed by The Maryland-National Capital Park and Planning Commission (M-NCPPC) as well as the State of Maryland Critical Area Commission.

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

The Department of Public Works and Transportation (DPW&T) has determined that, because the proposed addition results in less than 5,000 square feet of disturbance, no stormwater management facilities are required.

- (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.**

The Planning Board finds that the site has been submitted in accordance with the above requirement. The site development has an approved Stormwater Management Concept Plan, 12000-2010, dated May 21, 2010, which states that, because the addition results in less than 5,000 square feet of disturbance, no stormwater management facilities are required.

- (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.**

The Planning Board finds that the mitigation, based on ten percent stormwater management calculations in the I-D-O Zone, requires planting five trees or three trees and five shrubs. The planting proposed on the plan includes five trees which would fulfill this requirement. The applicant shall include a chart on the conservation plan indicating the ten percent requirement and how it is met on-site.

- (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.**

The subject conservation plan is not for new development. The above provision is not applicable to the subject review.

- (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.**

If offsets are determined to be necessary, they shall be provided on-site.

- (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.**

The application has been reviewed for conformance with the above requirement. The conservation plan proposes to plant two ornamental trees and three shade trees on the site. If approved with conditions, the Planning Board finds that permeable areas will be established with vegetation.

- (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 above provision is not applicable to the subject review. There are no areas of public access to any shoreline, nor is there public recreation proposed on the subject site.

3. **Further Planning Board Findings and Comments from Other Entities:** The Planning Board adopts the following findings:

- a. **Community Planning North**—A detailed site plan application is required because the proposed addition does not meet all applicable development district standards. On page 147 of the Gateway Arts District Sector Plan, Standard 27 provides that one-family detached dwellings shall have a minimum rear yard of 25 feet in depth. The proposed rear yard is 20.7 feet. An amendment to this standard is required to reduce the rear yard setback.

The subject CP plan is companion to Detailed Site Plan DSP-10037 and Special Permit SP-100003. Any amendment to the applicable development district standards is further discussed as a part of those approvals.

- b. **Environmental Planning**—The Planning Board finds that the water quality and stormwater measures used for redevelopment areas shall reduce pollutant loading by at least ten percent below the levels expected from the site prior to redevelopment. The plan shows this requirement being met.

The applicant shall also execute and sign a conservation agreement to be recorded in the Prince George's County Land Records prior to final signature approval of the conservation plan.

- c. **Permit Review**—The required plan revisions have been addressed.
- d. **State of Maryland Critical Area Commission**—The Critical Area Commission provided comment on the submitted conservation plan, as follows:
1. The applicant should revise the lot coverage chart to correctly indicate the amount of lot coverage that currently exists.
 2. Since the property is located within the I-D-O Zone and greater than 250 square feet of new impervious surface is proposed, ten percent phosphorus reduction is required. The applicant shall complete and submit the necessary worksheets for re-review. It appears that 0.03 lbs/year of phosphorus removal is required. This can be met on-site by planting a combination of native trees and shrubs.
- e. **Department of Public Works and Transportation (DPW&T)**—DPW&T provided comment on the conservation plan submitted.
1. The project does not impact any county-maintained roadways.
 2. The proposed site development has an approved Stormwater Management Concept Plan (12000-2010).
 3. The site plan needs to show how the "Critical Area 10% Rule" will be met.

- f. **Town of North Brentwood**—In a letter dated April 7, 2011, the Town of North Brentwood provided written comment on the companion detailed site plan. The letter indicates that the town has a long history of flooding and other water-related issues. Additionally, the town is striving to maintain the integrity and continuity of bungalow-style homes in keeping with North Brentwood's rich history and culture. Three items of concern were raised in the letter:

1. There is a property close to the site that is a historic property, which was stated contrary on the site plan.

The Planning Board finds that the subject property is located within North Brentwood National Register Historic District 68-061. There are a few historic resources and sites along 41st Avenue in the near vicinity of the subject property. None of those resources or sites abut the subject property. The applicant shall revise Note 21 on the conservation plan accordingly.

2. The site is located in the 100-year floodplain, which was stated contrary on the site plan.

Geographic Information Systems (GIS) data indicates that Federal Emergency Management Agency (FEMA) floodplain affects a large portion of 41st Avenue, north of the subject property. No FEMA floodplain is indicated on the subject property. Due to the nature of the site and extent of the revision, the Planning Board finds that no floodplain study is required.

3. The site is in the Chesapeake Bay Critical Area, this was stated properly on the site plan, and due to reoccurring flooding issues in the town, this issue should be addressed.

The Planning Board finds that the conservation plan, as approved with conditions, will be in conformance with the applicable requirements of the Chesapeake Bay Critical Area.

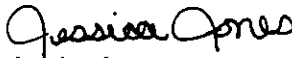
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

* * * * *

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 and Parker voting in favor of the motion, and with Commissioner Cavitt absent at its regular meeting held on Thursday, April 28, 2011, in Upper Marlboro, Maryland.

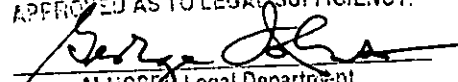
Adopted by the Prince George's County Planning Board this 19th day of May 2011.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Acting Planning Board Administrator

PCB:JJ:MF:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPD Legal Department

Date 5/6/11