



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 14-47

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Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
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File No. CP-12002

R E S O L U T I O N

WHEREAS, Sonia Casey is the owner of a 0.61-acre parcel of land in the 8th Election District of Prince George's County, Maryland, and being zoned Rural Residential/Chesapeake Bay Critical Area Limited Development Overlay (R-R/L-D-O); and

WHEREAS, on May 31, 2013, Sonia Casey filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of installing a new asphalt driveway and concrete walkway in the Chesapeake Bay Critical Area; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-12002 for Indian Queen Estates, Lot 1, Block A, 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 15, 2014, 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 May 15, 2014, 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 APPROVED Conservation Plan CP-12002, Indian Queen Estates, Lot 1, Block A, subject to the following conditions:

1. Prior to certification, the following minor revisions shall be made to the conservation plan:
 - a. Provide a five-year invasive species management plan to ensure eradication of bamboo from the site.
 - b. Provide an evaluation report prepared and signed by a certified arborist, or other qualified professional, to document the health of the five large trees located in the backyard. At a minimum, the evaluation shall include a professional opinion on the long-term survivability of each tree and a five-year management plan for each individual tree. This report shall be submitted to the Environmental Planning Section of The Maryland-National Capital Park and Planning Commission (M-NCPPC). The five-year management plan for each tree shall be added to the plan.

- c. Should it be determined that any tree on-site needs to be removed for safety purposes, each tree shall be replaced at a 1:1 basis with a two-inch caliper native tree species.
2. Prior to certification of the conservation plan, a Chesapeake Bay Conservation and Planting Agreement shall be recorded in Prince George's County Land Records.

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

- A. **Nature of the Applicant's Request:** The proposal is to validate an existing asphalt driveway and concrete walkway that was constructed without the approval of a Chesapeake Bay Critical Area (CBCA) Conservation Plan. The property is currently approved with a detached single-family dwelling in the Rural Residential/Chesapeake Bay Critical Area Limited Development Overlay (R-R/L-D-O) Zones.

The property is known as Lot 1, Block A, in the Indian Queen Estates Subdivision, and is located in the Developing Tier. The site has a gross tract area consisting of approximately 0.61 acres, or 26,512 square feet. Section One of the Indian Queen Estates Subdivision was recorded in Prince George's County Land Records on November 16, 1960 as WWW 39 @ 31.

The entire property is located outside the primary and secondary CBCA buffers, and no variances are requested as a part of the conservation plan. All surrounding properties consist of detached single-family dwellings in the R-R/L-D-O Zones.

- B. **History:**

November 16, 2011—The applicant obtained ownership of the property via recordation of deed, Liber 33108 @ Folio 103.

September 11, 2012—Permit 28203-2012-RG was applied for by the applicant for the installation a new residential driveway. However, the applicant has not yet submitted the permit application to The Maryland-National Capital Park and Planning Commission (M-NCPPC) for review and comment. Currently, the permit application has not been reviewed or approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) or M-NCPPC.

March 6, 2012—A CBCA Exemption letter was approved by Prince George's County Department of Public Works and Transportation (DPW&T) on March 6, 2012 for a 34-foot by 12-foot deck with a 4-foot by 8-foot ramp.

March 6, 2012—Permit 5731-2012-UOW was approved for a congregate living facility with up to five residents. However, it is the Commission's understanding that the congregate living facility use never commenced on the property, and the site continues to be used as a single-family dwelling only.

March 7, 2012—Permit 5129-2012-R was approved for a 34-foot by 12-foot deck.

July 25, 2012—Violation Notice BVN23184-12-00 was issued to the property owner by the Department of Environmental Resources (DER). The corrective actions required were to:

1. Obtain the required permits for installing the asphalt driveway/parking area over the previous grass/gravel area and installing a new concrete lead walk from the front door to the driveway where none existed before, or remove the same. The property is located in the CBCA and permits are required for any impervious additions to the lot.
2. Pay a special investigation fee of \$150.00.
3. Call for and obtain the required inspections when all of the above is completed.

The applicant was notified to comply with the provisions of the law and to correct the deficiencies on or before August 9, 2012.

September 13, 2012—Violation Notice BVN23184-12-01 was issued to the property owner by the DER. The corrective actions required were to:

1. Obtain the required permits for installing the asphalt driveway/parking area over the previous grass/gravel area and installing a new concrete lead walk from the front door to the driveway where none existed before, or remove the same. The property is located in the CBCA and permits are required for any impervious additions to the lot.
2. Pay a special investigation fee of \$150.00.
3. Call for and obtain the required inspections when all of the above is completed.

The applicant was notified to comply with the provisions of the law and to correct the deficiencies on or before September 27, 2012.

October 10, 2012—The subject application (CP-12002) was submitted for the initial pre-acceptance review.

February 15, 2013—Natural Resources Inventory Equivalency Letter, NRI-024-13, was approved for the property by the Environmental Planning Section.

February 26, 2013—Stormwater Management Concept Plan 5507-2013-00 was approved by DPW&T.

May 31, 2013—The subject application (CP-12002) was formally accepted by the Planning Department as a staff-level review case requiring approval from the Planning Director.

June 8, 2013—Signs were posted on the property to provide notice of the right to request a public hearing.

July 4, 2013—A written request for a public hearing was submitted to the Planning Director's Office. The letter was signed by 12 residents who live along Indian Queen Point Road.

July 5, 2013—The subject application (CP-12002) was heard by the Subdivision and Development Review Committee (SDRC).

July 14, 2014—Signs were posted on the property to provide notice of the public hearing.

- C. **Environmental Planning Section:** In a memorandum dated January 13, 2014, the Environmental Planning Section provided the following comments concerning the application:

The Environmental Planning Section last reviewed CBCA Conservation Plan CP-12002 on January 13, 2014. This application qualifies as a Planning Director review per Section 5B-116(e) of the Prince George's County Code; however, a request for a Planning Board hearing was received and the case will be heard in accordance with Section 5B-116(f). The Environmental Planning Section recommends approval of CP-12002 subject to conditions.

The application has been submitted to address the requirements of a violation issued by DER on July 25, 2012 in Notice of Violation BVN 23184-12-00. The violation was issued for the installation of asphalt over an existing grass and gravel driveway area and for the installation of a new concrete walkway connecting the driveway to the front door.

A site visit was conducted by Environmental Planning staff on December 31, 2013, to verify the existing conditions of the site. Measurements were taken on accessible impervious surface areas and structures. The dimensions shown on the plan were checked and it was determined that the plan needs to be revised to accurately reflect the dimensions of all structures and impervious surfaces including, but not limited to, the front walkway and entrance, the rear deck and ramp, and the brick planter. The base of the brick planter is wider than one foot and therefore must be counted as impervious surface lot coverage. The plan states that there is a covered front porch, but there is no covered porch in the front or rear of the existing residential structure. The plan needs to be revised to remove all references to a covered porch.

A stand of invasive bamboo was noted by Environmental Planning staff during the December site visit that is not shown on the plan. The existing bamboo stand must be shown on the plan. The plan must be further revised to show the bamboo as removed. A five-year invasive species management plan must be shown on the plan to address the long-term eradication of bamboo from the property.

There are five existing cherry trees in the rear yard ranging in size from 20 to 24-inch diameter at breast height, which show signs of distress from being taken over by an aggressive vine species. These trees are shown on the plan to meet a portion of the 15 percent developed woodland requirement. An evaluation report prepared and signed by a certified arborist must be submitted to Environmental Planning staff prior to certification of the plan. This evaluation must contain a professional opinion on the survivability of each individual tree and specific five-year maintenance steps needed for survival. After review by Environmental Planning staff, the five-year management plan for each individual tree must be placed on the conservation plan prior to certification. If it is determined that any of these trees need to be removed for safety purposes, the trees shall be replaced at a 1:1 basis with a two-inch caliper native tree species.

The conservation plan application was originally heard by the Prince George's County Planning Board on February 20, 2014, and was continued to May 15, 2014, in order to allow adequate time for the applicant, Sonia Casey, to address minor discrepancies that were identified on the conservation plan at the time of the writing of the staff report and that were further discussed at the public hearing.

A revised conservation plan was submitted by the applicant on March 31, 2014. In an e-mail dated April 21, 2014, the Environmental Planning Section provided the following updated comments concerning the revised conservation plan:

The Environmental Planning Section has reviewed revised Chesapeake Bay Critical Area Conservation Plan CP-12002, stamped as received on April 3, 2014. This application was previously heard by the Planning Board on February 20, 2014 and was continued to the May 15, 2014 public hearing. Two conditions were previously recommended by the Environmental Planning Section in the original staff report.

The current plan submission has adequately addressed Conditions 1(a) through (d). The Environmental Planning Section still recommends that the remaining conditions, Conditions 1(e) through (g) and Condition 2, be addressed prior to certification of the conservation plan.

These comments supersede the Environmental Planning Section's previous memorandum dated January 13, 2014.

The following conditions were recommended in the original staff report for CP-12002. Additional comments have been added to address any changes that may be necessary to these conditions due to submission of the revised conservation plan and the updated memorandum received from the Environmental Planning Section on April 21, 2014.

1. Prior to certification, the following minor revisions shall be made to the conservation plan:

- a. Show the correct dimensions for all existing structures and impervious surfaces on-site including, but not limited to, the front walkway and front porch, the rear deck and ramp, and the brick planter. The existing lot coverage amount shall not exceed 15 percent of the gross tract area.
- b. Revise Table A to remove the lot coverage amount for the porch (73 square feet) and remove all references to the porch as being covered on the site plan.
- c. Update the lot coverage tables to account for all impervious surfaces.
- d. Show the location of the existing bamboo stand and label it as being removed.

Comment: The above conditions have been fully addressed on the revised conservation plan and are no longer recommended.

- e. Provide a five-year invasive species management plan to ensure eradication of bamboo from the site.
- f. Provide an evaluation report prepared and signed by a certified arborist to document the health of the five large trees located in the backyard. At a minimum, the evaluation shall include a professional opinion on the long-term survivability of each tree and a five-year management plan for each individual tree. This report shall be submitted to the Environmental Planning Section of The Maryland-National Capital Park and Planning Commission (M-NCPPC). The five-year management plan for each tree shall be added to the plan.
- g. Should it be determined that any tree on-site needs to be removed for safety purposes, each tree shall be replaced at a 1:1 basis with a two-inch caliper native tree species.

Comment: Conditions 1(a) through (c) of this resolution impose these as requirements and will be addressed prior to certification of the conservation plan.

- 2. Prior to certification of the conservation plan, a Chesapeake Bay Conservation and Planting Agreement shall be recorded in Prince George's County Land Records.

Comment: This condition is a standard requirement for all conservation plan applications and will be addressed prior to certification of the conservation plan.

Based on the above findings, the Environmental Planning Section recommends that Chesapeake Bay Critical Area Conservation Plan CP-12002 for Indian Queen Estates, Lot 1, Block A, be APPROVED subject to Conditions 1(e) through (g) and Condition 2 as noted above.

- D. **Critical Area Commission:** In a memorandum dated July 11, 2013, the Critical Area Commission stated the following:

While the current application appears to be in conformance with the county critical area development requirements, including the 15 percent lot coverage limit, we note that with this application, 13.9 percent of the property will be developed as lot coverage. If future applications are made for further development of lot coverage on the property, a reduction of existing lot coverage elsewhere on the property will likely be required in order to stay under the 15 percent lot coverage limit.

- E. **Urban Design Section:** In a memorandum dated July 22, 2013, the Urban Design Section provided the following comments:

The Urban Design Section has reviewed the information provided in support of the proposed CBCA Conservation Plan, CP-12002, which requests the validation of site work performed including the addition of an asphalt driveway and concrete walkway to a lot with an existing single-family detached residence within the CBCA. A conservation plan is required on the site due to its close proximity to the Potomac River. The subject 0.61-acre site is located at 9918 Indian Queen Point Road and approximately 250 feet west of its intersection with Kiskonko Road, Fort Washington, in the Rural Residential (R-R) and Limited Development Overlay (L-D-O) Zones.

Zoning Ordinance

The application is subject to the Zoning Ordinance requirements of the R-R Zone, including Section 27-441 (Permitted Uses) and Section 27-442 (Regulations). The proposed single-family detached residence is a permitted use and meets the regulations for setback, lot size, and lot coverage requirements in the L-D-O Zone.

Chesapeake Bay Critical Area Ordinance

The application is subject to the requirements Section 5B-114, L-D-O Zones, of the Chesapeake Bay Critical Area Ordinance. The Urban Design Section has reviewed the plans and find it in conformance with the requirement of subsection (e)(8), which requires in part that lot coverage in the CBCA be limited to 15 percent of the site. In accordance with the worksheet provided on the plans, the lot coverage does not exceed the required maximum.

The Environmental Planning Section should review the case for compliance with the other applicable sections of the Chesapeake Bay Critical Area Ordinance.

2010 Prince George's County Landscape Manual

Pursuant to Section 1.1(e), Applicability, of the 2010 *Prince George's County Landscape Manual* (Landscape Manual), permits pertaining to any existing single-family home are exempt from Section 4.1, Residential Requirements. No other sections of the Landscape Manual apply to the site.

Tree Canopy Coverage Ordinance

The Tree Canopy Coverage Ordinance became effective on September 1, 2010. Since the entire subject property is located within the CBCA, it is exempt from the Tree Canopy Coverage Ordinance in accordance with Section 25-127(b)(1)(E) of the County Code.

Recommendation

Based on the above analyses, the Urban Design Section has no issues with CP-12002, Lot 1, Block A, Indian Queen Estates.

- F. **Historic Preservation Section:** Within a referral dated May 20, 2013, the Historic Preservation Section stated the following:

The subject property comprises 0.61 acre and is located at 9918 Indian Queen Point Road, approximately 250 feet west of Kisconko Road in Fort Washington, Maryland. The site lies within the L-D-O Zone of the CBCA. The subject conservation plan proposes the approval of a 65-foot-long asphalt paved driveway and a five-foot-wide concrete sidewalk from the driveway to the front door of the house that was constructed without a permit.

A Phase I archeological survey is not recommended on the above-referenced 0.61-acre property located at 9918 Indian Queen Point Road. The subject property is currently developed with an existing residence built in 1962. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. This proposal will not impact any historic sites, historic resources, documented properties, or known archeological sites.

Within an additional referral dated June 18, 2013, the Historic Preservation Section further found that the subject application for the installation of an asphalt driveway and concrete walkway would have no effect on identified historic sites, resources, or districts.

- G. **Department of Public Works and Transportation (DPW&T):** In a memorandum dated June 28, 2013, in response to the installation of new impervious surfaces without permits and the proposed Conservation Plan, CP-12002, referral for a single-family home located in the CBCA, DPW&T offers the following:

Indian Queen Estates, Lot 1, Block A, is located on the northside of Indian Queen Point Road, approximately 250 feet west of Kisconko Road and lies within the L-D-O Zone of the CBCA.

Therefore, appropriate permits and an approved conservation plan are required for impervious additions to the lot.

The newly installed asphalt driveway and concrete sidewalk must be in conformance with DPW&T's standards and specifications. A site development fine grading permit will be required if post-violation corrective action is warranted. This lot has an approved Stormwater Management Concept Plan, 5507-2013, dated February 26, 2013.

- H. **Prince George's County Health Department:** Within a memorandum dated July 5, 2013, the Health Department stated that they had no comments concerning the application.
- I. **Maryland State Highway Administration (SHA):** Within a memorandum dated June 6, 2013, SHA stated that they have no objection to plan approval, as all access is via county roadways. The application does not impact any state-maintained roadways.
- J. **Trails:** In a memorandum dated June 20, 2013, the Trails Section stated the following concerning the application:

Staff reviewed this proposal for conformance with Section 24-123 of the Subdivision Regulations, the 2009 *Approved Countywide Master Plan of Transportation* (MPOT), and the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* (area master plan) for pedestrian and bicyclist improvements. The Planning Board requires that plans conform to Section 24-123 and, in terms of bikeway and pedestrian facilities, land for bike trails and pedestrian circulation systems shall be shown on the preliminary plan and, where dedicated or reserved, shown on the final plat when the trails are indicated on a master plan, the County Trails Plan, or where the property abuts an existing or dedicated trail, unless the Planning Board finds that previously proposed trails are no longer warranted (Section 24-123).

There are no sidewalks in the vicinity of the subject property. Indian Queen Point Road is open section. The nearest master-planned on-road bikeways and trails occur on Oxon Hill Road (bike lanes), which is part of the Potomac Heritage National Scenic Trail, and a trail easement that lies west of the subject property south of Edgewater Terrace. These facilities do not directly affect the subject application.

Conclusion

Based on the preceding analysis, the Transportation Planning Section concludes that adequate bicycle and pedestrian transportation facilities would exist to serve the property as required under Section 24-123 of the Subdivision Regulations.

- K. **Subdivision Review**—In a memorandum dated July 3, 2013, the Subdivision Review Section stated the following concerning the application:

Lot 1 was recorded in Plat Book WWW 39@ 31 in 1960. The site is improved with a single-family detached dwelling. This application is not proposing any new building or gross floor area.

Therefore, the site is exempt from the requirement of filing a preliminary plan of subdivision pursuant to Section 24-111(c) of the Subdivision Regulations. The bearings, distances, and lot size shown on the submitted conservation plan are in conformance with the record plat.

- L. **Department of Environmental Resources (DER), Zoning Enforcement Section**—In an undated memorandum, the Zoning Enforcement Section stated that the submitted site plan matches the actual conditions.

Required Findings

1. The maximum amount of impervious surfaces permitted per Section 27-548.17(b) of the Zoning Ordinance is 15 percent of the gross tract area, or 3,977 square feet. The proposed impervious surface areas total 3,695 square feet, or approximately 13.9 percent.
2. The maximum percentage of lot coverage permitted by the Zoning Ordinance (Section 27-442, Table II) is 25 percent of the contiguous net tract area, or 6,628 square feet. The existing percentage of lot coverage, which includes the house footprint and driveway, is 3,292 square feet, or approximately 12.4 percent.
3. The minimum lot width at the front street line permitted by Section 27-442(d), Table III, of the Zoning Ordinance is 70 feet. The lot width at the front street line is approximately 124.67 feet.
4. The minimum lot width at the front building line permitted by Section 27-442(d), Table III, of the Zoning Ordinance is 100 feet. The lot width at the front building line is approximately 131 feet.
5. The minimum front yard setback permitted by Section 27-442(e), Table IV, of the Zoning Ordinance is 25 feet for single-family detached dwellings. The front yard setback is approximately 66 feet to the existing single-family dwelling.
6. The minimum side yards permitted by Section 27-442(e), Table IV, of the Zoning Ordinance are a total of 17 feet with a minimum of eight feet for either yard. The existing side yard setbacks far exceed this number.
7. The minimum rear yard required by Section 27-442(e), Table IV, of the Zoning Ordinance is 20 feet. The existing rear yard setback far exceeds this number.

- M. **At The Public Hearing**—At the public hearing for this application on May 15, 2014, the applicant requested a minor modification to the language in Condition 1(b), (formally Condition 1(f) in the original staff report). The condition requires an evaluation report to be prepared and signed by a certified arborist to document the health of the five large trees located in the backyard, and to provide a professional opinion on the long-term survivability of each tree and a five-year management plan for each individual tree. The applicant had retained a licensed tree expert to

address this requirement who is not a certified arborist. As a result, the applicant requested that the language "or other qualified professional" be added to the condition after certified arborist. The Planning Board agreed with the applicant's request and the condition has been revised accordingly.

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 Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Bailey and Hewlett voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, May 15, 2014, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of June 2014.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:JF:arj

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC Legal Department
Date 5/27/14