

R E S O L U T I O N

WHEREAS, Michael and Crissy Min are the owners of a 30,179 square foot-acre parcel of land in the 12th Election District of Prince George's County, Maryland, and being zoned Rural Residential/Limited Development Overlay (R-R/L-D-O); and

WHEREAS, on October 8, 2018, Mariano Flaim (Flaim Homes, LLC) filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of constructing a single-family detached dwelling on a vacant and partially-wooded property within 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-16002 for Indian Queen Overlook, Lot 5, including a Variance to Section 5B-121(e), 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 January 10, 2019, 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 January 10, 2019, 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 a Variance to Section 5B-121(e), and further APPROVED Conservation Plan CP-16002, Indian Queen Overlook, Lot 5 with the following conditions:

1. Prior to certification of the conservation plan (CP), provide the following:
 - a. On the Conservation Plan, verify that the lot coverage calculations are accurate and reflect what is shown on the plan. As an example, the chart shows 107 square feet for a sidewalk, but the plan only represents 71.32 square feet and it is not clear if the covered front porch and steps are included.
 - b. Provide notes regarding the Chesapeake Bay Conservation and Planting Agreement and the Chesapeake Bay Conservation Easement, including spaces to enter the Liber/folio.
 - c. Provide a plan entitled "Standard Buffer Management Plan," completed in accordance with Section 5B-121(l) of the County Code, Standard Buffer Management Plan that shows:

- (1) In accordance with Section 5B-121(f)(2) of the County Code, a fully established buffer will be planted. Required plantings shall be prioritized within the primary and secondary buffers and any remaining mitigation may be planted outside the buffers.
 - (2) A planting schedule along with the planting plan must be provided for all mitigation showing the species, common and scientific name (all native to Prince George's County), the size, the type of stock, and the area credit.
 - (3) Mitigation for the variance, which is a 3:1 ratio for all disturbance within the primary and secondary buffer. This requirement is in addition to the mitigation required for the clearing.
- d. Provide a note indicating the gross floor area of the dwelling.
- e. Relocate the proposed dwelling a maximum of 90 feet from the front property line, along Indian Queen Point Road.
2. Prior to certification of the Conservation Plan, the applicant shall 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 DPIE and the Liber/Folio shall be shown above the conservation plan approval block in the following note:

“The Chesapeake Bay Conservation and Planting Agreement for this property is found in Liber____/folio____.”

3. Prior to the certification of the Conservation Plan, a conservation easement for all developed woodland that is approved to remain on-site (as preservation) shall be recorded in the 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 Liber____/folio____.”

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 for the construction of a single-family detached dwelling on a vacant and partially-wooded property within the Chesapeake Bay Critical Area (CBCA), Limited Development Overlay (L-D-O) Zone. This conservation plan (CP) was originally accepted on October 27, 2017 as a Planning Director level review; however, as allowed by Prince George's County Zoning Ordinance Section 5B-116(e), citizens requested a public hearing. The citizens retracted their hearing request, however during the plan review, it was discovered that the subject site includes an expanded secondary buffer, which encompasses the majority of the subject site. Construction of the single-family dwelling will impact the secondary buffer requiring

a variance which was heard by the Planning Board pursuant to Section 5B-121(e) of the Prince George's County Code as part of this application.

2. **Location:** The subject property is located approximately 673 feet southwest of Kiskonko Road, on the south side of Indian Queen Point Road. The property address is 9905 Indian Queen Point Road, Fort Washington, Maryland 20744.

3. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-R/L-D-O	R-R/L-D-O
Use(s)	Vacant	Residential
Acreage	30,179 sq. ft.	30,179 sq. ft.

OTHER DEVELOPMENT DATA

	PERMITTED	APPROVED
Maximum Building Height	35 feet	34 feet
Maximum Lot Coverage (per R-R Zone)	25 percent	13 percent
Minimum Front Yard Setback	25 feet	90 feet
Minimum Side Yard Setbacks	8 feet/17 feet	12 feet/25 feet

4. **Surrounding Uses:** The subject property is located within the Rural Residential (R-R) and Limited Development Overlay (L-D-O) Zone within the CBCA and is surrounded by identically-zoned, developed single-family residential properties within the Indian Queen Subdivision. Broad Creek, a tributary of the Potomac River, is located south of the subject property and Indian Queen Point Road abuts the subject property to the north.
5. **Previous Approvals:** On May 11, 1972, the Planning Board approved a final plat of subdivision for Lots 2 through 6 for Indian Queen Overlook, recorded in Plat Book WWW 78–67, which included the subject site (Lot 5), not subject to any conditions. There are no records available for the associated preliminary plan of subdivision (PPS) 12-2686 for this site.
6. **Design Features:** The conservation site plan shows the lot bearings and distances consistent with the record plat and meets the requirements of the Prince George's County Zoning Ordinance for development in the R-R Zone, specifically regarding lot coverage and setbacks. The site plan illustrates the grading of the lot and construction of a two-story single-family detached dwelling, which includes an attached garage and covered concrete porch. The gross floor area (GFA) for the single-family detached dwelling is not delineated within the general notes on the plan set and shall be included. A driveway will lead from Indian Queen Point Road to the attached two-car-garage. A concrete step walkway leading to the front door of the dwelling is to be constructed and is within the 100-foot secondary buffer. Architecture for the single-family dwelling was not submitted with the subject application.

COMPLIANCE WITH EVALUATION CRITERIA

7. Environmental Review and Conformance with Subtitle 5B

Background

The following applications and associated plans were previously reviewed for the subject site:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
CP-16002	N/A	Director	Pending	Pending	N/A
NRI-108-2016	N/A	Staff	Approved	9/15/2016	N/A

Site Description

This 0.69-acre property is in the R-R/LDO Zones and is located at 9905 Indian Queen Point Road, Fort Washington, Maryland. The site contains CBCA 100-foot primary buffer, expanded secondary buffer, federal emergency management agency (FEMA) 100-year floodplain, and steep slopes. This property does not have trees of significant size but has a wooded area with a maintained understory adjacent to Indian Queen Point Road and developed woodland area containing trees, shrubs, and invasive species on the steep slopes adjacent to Broad Creek. No scenic or historic roads are affected by this development. The site is not located within a Sensitive Species Project Review Area (SSPRA) nor does it have State or Federal Rare, Threatened or Endangered (RTE) species within the boundary area. This entire site is located within the Regulated Area of the Green Infrastructure Network. The Web Soil Survey indicates that the site is comprised of Croom-Howell-Collington complex and Magnolia-Urban land complex soil types.

Chesapeake Bay Critical Area Commission (CBCA) Review

Comments were received from the Critical Area Commission (CAC) on October 26, 2018. The comments address a variance request for development in the secondary buffer, and provide conditions requiring mitigation for woodland removal as well as a buffer management plan, to establish vegetation in the primary and secondary buffers. The applicant submitted a variance request for CBCA buffer impacts. An evaluation of the requirements for approval of a variance is provided under the variances and CBCA plan sections of this resolution.

Variance

Subtitle 5B of the County Code, the Chesapeake Bay Critical Area Ordinance, states under permitted activities in the Critical Area Buffer, Section 5B-121(e), that:

New development is permitted in the Buffer associated with a water-dependent activity as noted in Section 27-548.16 or for shore erosion control measures as described in Section 5B-124. All other uses and structures are prohibited within the Buffer, except where an appropriate variance has been requested and approved by the Planning Board.

A Subtitle 5B Variance Application, a Statement of Justification (SOJ) in support of a variance, and a conservation plan (CP) were received on October 9, 2018. The variance request is for the construction of a single-family dwelling within the secondary buffer, as delineated by Section 5B-121(a)(1)(C)(i) of the County Code.

Section 27-230 of the Zoning Ordinance contains required findings [**text in bold**] to be made before a variance can be granted. The applicant's SOJ seeks to address the required findings for Buffer impacts. The plain text is an analysis of the request.

(a) A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

The subject property was established through the Indian Creek Overlook subdivision in 1972 and aside from any erosion or accretion that may have occurred along the shoreline, has not been altered in any way. The property contains steep slopes, 15 percent and greater, within the primary buffer, extending approximately 140 feet landward of the shoreline. In accordance with Section 5B-121(a)(1)(C)(i) of the County Code, a secondary buffer is established by calculating "four feet for every one percent slope or the entire steep slope to the top of the slope, whichever is greater." Using this formula, the secondary buffer extends between 260 and 280 feet from the shoreline, thereby encumbering the majority of the property.

(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

The dwelling has been sited generally in line with the adjacent dwellings and follows a development pattern established in this section of the community. Situating the dwelling at the front setback line, along Indian Queen Point Road, would further minimize the impacts to the secondary buffer, but would not be in keeping with the established community. If the dwelling was situated at the front setback line, the variance would still be needed, as the dwelling's footprint would still be partially within the secondary buffer.

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

The intent, purpose, or integrity of the general plan or master plan will not be affected by the granting of this variance request. The Plan Prince George's 2035 Approved General Plan (Plan 2035), designates the area in the Established Communities Growth Policy area. The vision for Established Communities is context-sensitive infill and low to medium-density development. The 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment (Henson Creek-South Potomac Master Plan and SMA) recommends Residential, Low-Density land uses on the subject property. The construction of a single-family dwelling falls within the intent of the General Plan and Henson Creek-South Potomac Master Plan and SMA.

(b) Variances may only be granted by the Planning Board from the provisions of this Subtitle or Subtitle 5B for property located within the Chesapeake Bay Critical Area Overlay Zones where an appellant demonstrates that provisions have been made to minimize any adverse environmental impact of the variance and where the Prince George's County Planning Board (or its authorized representative) has found, in addition to the findings set forth in Subsection (a), that:

(1) Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal interpretation of provisions within the Chesapeake Bay Critical Area would result in unwarranted hardship.

In accordance with Section 5B-121(a)(1)(C)(i) of the County Code, a secondary buffer is established by calculating "four feet for every one percent slope or the entire steep slope to the top of the slope, whichever is greater." Using this formula, the secondary buffer extends between 260 and 280 feet from the shoreline, thereby encumbering the majority of the property. If the dwelling was situated at the front setback line, the variance would still be needed, as the dwelling's footprint would still be partially within the secondary buffer. Therefore, denying the variance would constitute an unwarranted hardship.

(2) A literal interpretation of the Subtitle would deprive the applicant of the rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Area.

A literal interpretation of the Subtitle would deprive the applicant of the rights commonly enjoyed by other properties in similar areas within the CBCA by severely limiting the size of the development envelope, as well as the placement of the dwelling. Because the site contains CBCA 100-foot primary buffer, as well as the expanded secondary buffer, which encompasses most of the property, the applicant would be prohibited from constructing the home for which they purchased the property.

- (3) **The granting of a variance would not confer upon an applicant any special privilege that would be denied by this Subtitle to other lands or structures within the Chesapeake Bay Critical Area.**

The granting of this variance neither creates a need for additional variances nor establishes a special treatment. The location of the dwelling is generally in line with the development pattern established in this part of the community.

- (4) **The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any conditions relating to land or building use, either permitted or non-conforming, on any neighboring property.**

The variance request is not a result of any actions by the applicant and is not caused by conditions created by neighboring properties. Lot 5 of the Indian Queen Overlook Subdivision was recorded on May 11, 1972. This project is subject to the most current CBCA regulations contained in CB-75-2010 which became effective on January 3, 2011. The variance request to the critical area buffer is a result of current regulations that were created after the establishment of the subject property and after development of the neighboring properties.

- (5) **The granting of the variance would not adversely affect water quality or adversely impact fish, plant, wildlife habitat within the Chesapeake Bay Critical Area, and that granting of the variance would be in harmony with the general spirit and intent of the applicable laws within the Chesapeake Bay Critical Area.**

The applicant has provided planting mitigation and stormwater management (SWM Concept Plan No. 60720-2016), which will prevent any adverse effects on water quality and impacts to fish, plant, and wildlife habitat. The critical area buffer regulations include provisions for the granting of variances within the secondary buffer to ensure that the variance will be in harmony with the general spirit and intent of the applicable laws within the CBCA.

- (6) **The development plan would minimize adverse impacts on the water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands.**

The conservation plan incorporates stormwater management controls to minimize adverse impacts on water quality. The plan meets the intent of the approved SWM Concept Plan (60720-2016), approved on March 13, 2017.

- (7) **All fish, wildlife and plant habitat in the designated Critical Area would be**

protected by the development and implementation of either on-site or off-site programs.

All fish, wildlife, and plant habitats in the designated ‘critical areas’ would be protected by the stormwater management facilities and the required native planting mitigation.

- (8) The number of persons, their movements and activities, specified in the development plan, and in conformity to establish land use policies and would not create any adverse environmental impact.**

The number of persons, their movements and activities, specified in the development plan are in conformance with existing land use policies and would not create any adverse environmental impact. This is for a residential single-family dwelling in a residentially zoned and established community.

- (9) The growth allocation for Overlay Zones within the County would not be exceeded by the granting of the variance.**

No growth allocation is established for this property.

The Planning Board approves the variance for buffer impacts for the construction of a single-family detached dwelling, pursuant to the findings above.

Environmental Review

With this application the applicant will develop the subject L-D-O Zoned-property with a new, single-family detached dwelling. The site is currently undeveloped with 0 square feet of impervious surface, and contains developed woodland, steep slopes, and approximately 110 linear-feet of shoreline on Broad Creek, a tidal bay to the Potomac River. The plan provided with this application shows the new impervious area will be 3,920 square feet, or 13 percent of the site. The maximum allowable coverage on this property is 15 percent, or 4,527 square feet.

Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE) Review

A copy of the approved SWM Concept Plan and letter (60720-2016-00) dated March 13, 2017, was submitted with the subject application. The SWM concept plan shows stormwater to be directed from the roof top to three drywells and non-rooftop runoff to three swales. According to the approval letter, the site will be required to pay a stormwater management fee of \$250.00 in lieu of providing on-site attenuation/quality control measures. The CP is consistent with the SWM concept plan.

The stormwater management concept letter erroneously references a condition to satisfy the CBCA’s 10 Percent Rule, which only applies to properties in the I-D-O overlay. This site is located within the L-D-O overlay and is therefore, not subject to the 10 Percent Rule.

Chesapeake Bay Critical Area (CBCA) Conservation Plan

The plan, labeled as a “Chesapeake Bay Critical Area Plan, Grading, Erosion Sediment Control, Landscape and Stormwater Management Plan – 9905 Indian Queen Point Road – Lot 5 – Indian Queen Overlook,” shows the primary buffer, the secondary buffer, existing trees and the location of the dwelling, driveway, utilities and stormwater management. Tabulations provided on the plan include a tree inventory, including trees to be removed and an impervious area tabulation chart.

The maximum CBCA lot coverage for the subject lot is 15 percent or 4,527 square feet; this conservation plan shows 13.0 percent lot coverage, or 3,920 square feet. The dwelling area is located with an area comprised of individual trees with a mowed lawn area. This development will include the clearing of 16 trees as part of the house construction; however, 18 trees are shown within the limit of disturbance (LOD).

Revisions to the Conservation Plan are required.

Natural Resource Inventory Plan

The subject site has an approved Natural Resource Inventory plan (NRI-108-2016), dated September 15, 2016, which was included with the application package. The existing conditions of the site are correctly shown on the conservation plan. No additional information is required with regard to the existing conditions of the site.

Chesapeake Bay Conservation and Planting Agreement

A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded prior to certification approval for development of the site.

Chesapeake Bay Conservation Easement

A Conservation Easement will be required for this site for all remaining woodland. A metes and bounds description must accompany the easement. Review of the easement falls under the purview of DPIE.

Chesapeake Bay Critical Area (CBCA) Ordinance

The site is located within the L-D-O Zone; therefore, the site is subject to the CBCA regulations. The purposes of the L-D-O Zone, as outlined in Section 27-548.14 of the Prince George’s County Zoning Ordinance are to: maintain or, if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay; maintain existing areas of natural habitat; and accommodate additional low to moderate-intensity development. The regulations concerning the impervious surface ratio, density, slopes, and other provisions for new development in the L-D-O Zone are contained in Subtitle 5B of the County Code as follows:

Section 5B-114, Limited Development Overlay (L-D-O) Zones.

- (e) Development standards. An applicant for a development activity shall meet all of the following standards of environmental protection in the L-D-O Zone:**

- (1) All development sites that are within the designated network of the Countywide Green Infrastructure Plan shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Subtitle. The wildlife corridors shall be included and identified on the Conservation Plan. The maintenance of the wildlife corridors shall be ensured by the establishment of conservation easements.**

This property contains no specimen trees and the woodlands on the subject site are connected to existing tracts of connected woodland on developed lots that consist of a habitat corridor leading to the open waters associated with the main channel of the Potomac River Basin.

- (2) For the cutting or clearing of trees in natural or developed woodland areas in current, planned or future activities in the L-D-O Zone, the following shall be addressed:**
 - (A) Development activities shall be designed and implemented to minimize the destruction of woodland vegetation;**
 - (B) Provisions for protection for natural and developed woodlands identified shall be provided;**
 - (C) The total acreage of natural and developed woodlands shall be maintained or preferably increased to the fullest extent practicable; and**
 - (D) Mitigation for woodland impacts shall be within the Critical Area.**

Section 5B-114(e)(2) of the County Code requires development activities to be designed and implemented to minimize clearing, protect the remaining woodland, and mitigate for losses. The development is designed to meet this requirement, as the placement of the dwelling is in an area where the distance between the dwelling and the road is minimized.

The maximum allowed CBCA lot coverage for the subject lot is 15 percent and the development shows 13 percent.

- (3) For the alteration of natural and developed woodlands in the L-D-O Zone, the following requirements shall apply:**
 - (A) All woodlands that are allowed to be cleared or developed shall be**

replaced in the Critical Area on not less than an equal area basis;

- (B) No more than 20 percent of any natural or developed woodland may be removed from forest use, except as provided in paragraph (4) below. The remaining 80 percent shall be maintained through conservation easements; and**
- (C) Developed woodlands shall be preserved and/or restored to the greatest extent practicable.**

The County Code requires that woodland be preserved on-site to the greatest extent practicable. The woodland chart indicates that the replacement requirement for removal/clearing between 20 and 30 percent of woodlands will be satisfied in the critical area. The applicant will clear 4,234 square feet, or 21.34 percent of the existing 19,838 square feet of woodland area, replacing it at a 1.5:1 ratio, in accordance with paragraph 4, below.

- (4) For replacement of natural and developed woodlands, if more than 20 percent is to be removed from forest use, an applicant may clear or develop not more than 30 percent of the total forest area provided that the afforested area shall consist of 1.5 times the total surface acreage of the disturbed forest or developed woodland area, or both.**

The developed woodlands have been preserved or restored to the greatest extent practicable, as only 4,234 square feet, or 21.34 percent of the existing 19,838 square feet of woodland area will be cleared, and 1.5:1 mitigation is required, netting a mitigation replacement of 6,351 square-feet.

- (5) Clearing in excess of 30 percent of a natural or developed woodland is prohibited without a variance.**

This site has a gross tract area of 30,179 square feet containing 19,838 square feet of developed woodlands. These developed woodlands are 45.5 percent of the vegetative coverage on-site subject to the preservation requirements of the County Code. This application includes clearing of 4,234 square feet of woodlands, or 21.34 percent.

- (6) In addition, applicants shall adhere to the following criteria for forest and woodland development:**
 - (A) At time of permit issuance, the permittee shall post a bond with DPW&T in an amount equivalent to the cost of completion of the planting requirements for the L-D-O Zone;**
 - (B) Woodland which have been cleared before obtaining a**

grading permit or that exceed the maximum area allowed in subsection (3) above shall be replanted at the rate specified in subsection 5B-109(j)(3)(A);

- (C) If the areal extent of the site limits the application of the reforestation standards in this section, alternative provisions or reforestation guidelines may be permitted in accordance with Section 5B-119 Woodland Protection and Planting of this Subtitle. Alternative provisions must conserve, enhance, or increase the natural and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions or use of an off-site conservation bank if the provisions are adequate to ensure the restoration or establishment of the required woodland area;**
- (D) If less than 15% natural or developed woodland exists on the proposed development site, the site shall be planted to provide a natural or developed woodland cover of at least fifteen percent (15%);**
- (E) All forests designated on a Conservation Plan shall be maintained to the extent practicable, through conservation easements;**
- (F) The applicant shall designate, subject to the approval of the County, a new forest area on a part of the site not forested; and**
- (G) All forests designated on a Conservation Plan shall be maintained, and to the extent practicable protected through conservation easements.**

A Chesapeake Bay Conservation and Planting Agreement is required to be recorded prior to permit approval for development of the site.

A conservation easement will be required for the natural woodland that is to remain undisturbed on-site per Section 5B-114(c)(3)(B) of the County Code. This conservation easement is solely for the subject lot to prevent a loss of on-site woodlands.

- (7) Applicants shall adhere to the following standards for development on steep slopes. Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for L-D-O Zones set forth above and with the provisions below.**
 - (A) Consistent with an approved Forest Management Plan, if applicable;**

(B) Consistent with an approved Surface Mining Permit, if applicable; and

(C) Consistent with an approved Soil Conservation and Water Quality Plan, if applicable.

Development on slopes greater than 15 percent will not occur. Clearing of 4,234 square feet, or 21.34 percent, of woodland is approved with the subject application. A buffer management plan for the driveway path has not been incorporated with the CP.

Removal/clearing between 20 and 30 percent requires 1.5:1 mitigation. Additional buffer mitigation will be required because a variance is requested for the secondary buffer. The additional buffer mitigation will be addressed on the "Buffer Mitigation Plan," which shall be required prior to certification of the CP.

(8) Critical Area lot coverage shall be limited to 15 percent of the site or as permitted by 27-548.17(c).

In accordance with Section 5B-114(e)(8) of the County Code and Section 27-548.17(c)(2) of the Zoning Ordinance, the CBCA lot coverage is limited to no more than 15 percent of the site. A review of the plan and Table B-1 (CBCA Lot Coverage) demonstrates that the development will contain 3,920 square feet of lot coverage, which is below the 15 percent requirement.

(9) Conservation plans, and associated development plans may propose modifications in road standards on a case-by-case basis to reduce potential impacts to the site, reduce total lot coverage in the Critical Area, and limit impacts to Critical Area resources, where the reduced standards do not significantly affect safety.

The above provision does not apply to the subject application. Modification of road standards will not occur.

8. **Prince George's County Zoning Ordinance:** The application conforms to the requirements of the R-R Zone, including Section 27-441, Permitted Uses; and Section 27-442, Regulations, of the Zoning Ordinance as follows:

a. The single-family detached residence is a permitted use and meets the setback, lot size, and lot coverage requirements, as follows:

(1) Required net lot area is 20,000 square feet. The provided net lot area is 30,179 square feet, which meets this requirement.

(2) Maximum permitted lot coverage is 25 percent. The lot coverage shown on the

conservation plan, 13 percent, does not exceed this maximum.

- (3) The required front yard setback of 25 feet is provided.
- (4) The provided side yard setbacks exceed the minimum requirement of 8 feet from the property line to the building, and the total of both side yards requirement of a minimum of 17 feet. The side yard setbacks of an individual minimum of 12 feet and a total of 25 feet for the side yards are demonstrated on the site plan and exceed this requirement.
- (5) The required rear-yard setback is 20 feet. The provided rear-yard setback of 180 feet exceeds this requirement and is delineated on the plan.
- (6) The maximum building height permitted is 35 feet. The site plan indicates that the building will be two stories, and is 34 feet in height, which meets this requirement.
- (7) No accessory buildings are indicated on the site plan.

Based on this analysis of the Zoning Ordinance requirements, no variances from the above provisions are required.

9. **2010 Prince George's County Landscape Manual:** The application is subject to Section 4.1, Residential Requirements, of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The 30,179-square-foot lot requires four major shade trees and three ornamental or evergreen trees. The required plant material is shown on the conservation plan. Landscaping provided in accordance with the requirements of the Landscape Manual is required to conform to Section 4.9, Sustainable Landscaping Requirements. Section 4.9 requires that certain percentages of native plants be provided on-site, along with no invasive plants, and no plants being planted on slopes steeper than three-to-one. The submitted plans indicate conformance with these requirements.

As the site is located within the CBCA, the removal of existing vegetation, including invasive species, is discouraged. For this reason, removal of invasive species in accordance with Section 1.5, Certification of Installation of Plant Materials, is not recommended.

10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The project is not subject to the Woodland and Wildlife Habitat Conservation Ordinance because the entire site is within the CBCA.
11. **Prince George's County Tree Canopy Coverage Ordinance:** The Tree Canopy Coverage (TCC) 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.

12. **Review Comments:** The following referrals were received and are incorporated herein by reference; all of the comments are addressed on the site plan, or as part of this approval:
- a. Environmental Planning Section dated November 8, 2018 (Burke to Cannady II)
 - b. Permit Review Section dated October 19, 2018 (Glascoe to Cannady II)
 - c. Critical Area Commission dated October 26, 2018 (Harris to Cannady II)
 - d. Transportation Planning Section dated November 20, 2018 (Masog to Cannady II)
 - e. Prince George's County Department of Permitting, Inspections and Enforcement dated October 29, 2018 (Giles to Cannady II)
 - f. Urban Design Section dated October 27, 2017 (Lareuse to Cannady II)
 - g. Prince George's County Health Department (Environmental Engineering/Policy Program) dated November 13, 2017 (Johnson to Cannady II)
 - h. Historic Preservation Section dated November 5, 2018 (Stabler to Cannady II)
 - i. Community Planning Division dated November 7, 2018 (Umeuzulu to Cannady II)
13. **Planning Board Discussion:** During the Planning Board hearing, members of the surrounding community (opponents) provided testimony regarding the steep slopes found on and neighboring the subject site along Broad Creek. The opponents suggested relocating the single-family dwelling from its original setback of 110 feet to 85 feet, moving the dwelling an additional 25 feet away from Broad Creek, closer to Indian Queen Point Road. The applicant, however, proffered moving the dwelling from the original setback of 110 feet to 95 feet, moving the dwelling only 15 feet away from Broad Creek, closer to Indian Queen Point Road. Finally, upon agreement of the opponents and the applicant, it was agreed, and the Planning Board accepted, that the single-family dwelling be moved from 110 feet to a maximum of 90 feet from the front property line, along Indian Queen Point Road, moving the dwelling a total of 20 feet away from Broad Creek. During the hearing, the Environmental Planning staff stated that relocating the proposed dwelling closer to Indian Queen Point Road from the originally proposed 110-foot setback would reduce the overall lot coverage and not result in harmful impacts as compared to the original proposed location. A letter from the Critical Area Commission dated January 9, 2019, which amended their letter and recommendation dated October 26, 2018, was also received at the hearing.

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 Doerner, seconded by Commissioner Geraldo, with Commissioners Doerner, Geraldo, Bailey, and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, January 10, 2019, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of January 2019.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

EMH:JJ:RC:gh