

R E S O L U T I O N

WHEREAS, the City of Hyattsville Department of Public Works is the owner of a 2.73-acre parcel of land in the 16th Election District of Prince George's County, Maryland, and being zoned Open Space (O-S), Development District Overlay (D-D-O), and Chesapeake Bay Critical Area Intense Development Overlay (I-D-O); and

WHEREAS, on December 4, 2017, the City of Hyattsville Department of Public Works filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of redeveloping the City of Hyattsville Department of Public Works Operations Center located 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-17002 for City of Hyattsville Department of Public Works Operations Center Redevelopment, including a Variance from 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 February 22, 2018, 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 February 22, 2018, 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 from Section 5B-121(e), and further APPROVED Conservation Plan CP-17002, City of Hyattsville Department of Public Works Operations Center Redevelopment, with the following conditions:

1. Prior to signature approval of the conservation plan, the Chesapeake Bay Critical Area plan set shall be revised as follows:
 - a. Add a general note identifying each existing parcel number, its acreage, and recording reference for the subject site.
 - b. Add general notes indicating the existing, proposed, and total gross floor area of the buildings.
 - c. Add a note indicating the purpose of this application.

- d. Revise General Note 3 to include that the property is located in the Chesapeake Bay Critical Area Intense Development Overlay Zone.
- e. Add a note indicating that the site is adjacent to an historic site.
- f. Replace three of the proposed ornamental trees with native evergreen trees at two-inch caliper and eight-foot height, as identified in the *Native Plants for Wildlife Habitat and Conservation Landscaping, Chesapeake Bay Watershed*, on Parcel 50 along the property line abutting the existing historic site, to provide adequate protective buffering.
- g. Remove the label and square footage for the existing gravel areas from the conservation site plan where it is proposed to be redeveloped, or label as “to remain.”
- h. Provide the square footage for the existing shed on the site plan.
- i. Add a note on the site plan indicating that the development will conform to the construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.
- j. Add a note on the site plan ensuring that all sources of air pollution have been registered with the Maryland Department of the Environment, Air and Radiation Management Administration.
- k. Add a note on the site plan indicating that the development will conform to construction activity noise control requirements, as specified in Subtitle 19 of the Prince George’s County Code.
- l. Reconcile the gross tract, floodplain, and net tract areas in the site statistics table.
- m. Revise the mitigation summary table to reflect that the proposed mitigation planting shown on the plan meets the mitigation requirement, and that no fee-in-lieu is needed.
- n. Remove the conservation easement note located below the certification block.
- o. Have the plan signed by the property owner.
- p. 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 the Maryland-National Capital Park and Planning Commission, and the liber folio shall be shown below the conservation plan approval block.

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

1. **Overview and Request:** The subject site is located approximately 250 feet east of the intersection of Arundel Place and US 1 (Baltimore Avenue), in Hyattsville, in the Open Space (O-S), Development District Overlay (D-D-O), and Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zones. This application is for the redevelopment of the City of Hyattsville Department of Public Works (DPW) Operations Center located within the Chesapeake Bay Critical Area (CBCA). The 2.73-acre property is comprised of two parcels (Parcel 49 and Parcel 50) that have never been the subject of a record plat. Therefore, these properties are considered acreage parcels created by deeds dated September 2, 1938, recorded in Liber 516 at folio 193 on September 22, 1938, and March 25, 2002, recorded in Liber 15673 at folio 632 on April 9, 2002. The site has an existing five-foot-high chain-link fence around the property boundary, with the exception of an eight-foot iron-rod security gate at the entrance of the site.

The site is currently improved with a City of Hyattsville DPW maintenance facility and office building, a storage shed, and its associated unmarked parking lot. This facility has been in existence since 1976 and no longer meets the functional needs of DPW. According to Section 27-292(a) of the Prince George's County Zoning Ordinance, public municipal buildings and uses are not subject to the requirements of Subtitle 27 of the Prince George's County Code. However, the subject project is located within the CBCA, and is subject to Subtitle 5B, Chesapeake Bay Critical Area Ordinance, of the County Code. Therefore, a CBCA conservation plan is required for the development of this site.

This application is to rehabilitate the existing DPW maintenance facility and office building, construct a new 14,000-square-foot DPW maintenance facility and office, resurface its existing parking lot, install new stormwater management (SWM) facilities and stormdrain outfalls in the CBCA 100-foot primary and expanded secondary buffer, and add landscaping on the site. The approval also includes a Variance from Section 5B-121(e) of the CBCA Ordinance for the placement of two stormdrain outfall structures in the critical area buffer, requiring Prince George's County Planning Board approval.

2. **Setting:** The subject property is surrounded by the following uses:

North— Abutting are residential single-family detached dwellings in the One-Family Detached Residential (R-55) Zone and commercial development (American Professional Chimney and Masonry and an auto service business) in the Urban Light Industrial (U-L-I) Zone.

Southeast and South— Abutting is vacant land in the Multifamily High Density Residential-Efficiency (R-10) and O-S Zones, and beyond is the Anacostia River Stream Valley in the Reserve Open Space (R-O-S) Zone.

West— Along US 1 and Arundel Place are various established commercial developments (gas stations, auto service stations, and a plumbing and heating company) in the Commercial Shopping Center (C-S-C) and R-10 Zones.

3. **Development Data Summary:** The following information relates to the subject conservation plan application and the proposed development:

	EXISTING	APPROVED
Zone(s)	O-S/I-D-O/D-D-O	Unchanged
Use(s)	City of Hyattsville DPW Operations Center	Unchanged
Acreage	2.73	Unchanged
Parcels	2	Unchanged
Square Footage/GFA	8,700	22,700

4. **History:** There are no previous development review applications applicable to the subject site, not already associated with this instant application. Pursuant to Section 24-107(c)(5) of the Subdivision Regulations, the proposed development is exempt from a preliminary plan of subdivision for the conveyance of land to a governmental agency. The existing primary structure was built on the property and has been used as the Hyattsville DPW maintenance facility and office building since 1976.
5. **Environmental Review and Conformance with Subtitle 5B:** The subject application was evaluated for conformance to Subtitle 5B, as follows:

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
NRI-047-2017	N/A	Staff	Approved	4/10/2017	N/A
CP-17002	N/A	Planning Board	Pending		

Site Description

This 2.70-acre property is located at 4633 Arundel Place, Hyattsville, is in the O-S and D-D-O Zones, and is entirely within the I-D-O Zone. This site is not subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the entire site is within the CBCA. The property is currently developed with existing parking/pavement and structures. A small portion of the property is located within the 100-year floodplain, and a secondary buffer is located on-site. The predominant soils found to occur, according to the U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey, include the Codorus-Hatboro-Urban land complex (frequently flooded) and the Urban Land-Elsinboro complex soils. According to available information, Marlboro clay and Christiana complexes are not found to occur on this property. The site is not located within a Sensitive

Species Protection Review Area. No scenic or historic roads are affected by this proposal. According to the approved 2017 *Countywide Green Infrastructure Plan*, the property is entirely within a regulated area. The site is located within the Established Communities area of the Growth Policy Map, and in Environmental Strategy Area 4 of the Regulated Environmental Protection Areas Map as designated by the *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035).

Chesapeake Bay Critical Area Commission (CAC) Review

Comments were received from the Critical Area Commission (CAC) on December 13, 2017. Per state regulations, a "Consistency Report for Local Government Projects" is required to be submitted to the state. The comments state that buffer establishment and a variance for buffer impacts for stormwater outfalls are not required because this is a local government project, and the state mitigation rate for the outfalls is 1:1. However, the local Critical Area Code (Subtitle 5B) is more restrictive than the state requirements and requires a variance for buffer impacts, as well as a higher mitigation rate of 3:1.

The consistency report is to be filled out by the applicant and mailed directly to the CAC and is not regulated by the County.

Section 5B-121(e), Permitted Activities, requires a variance for all buffer impacts, except for water-dependent activities and shore erosion control measures. A local variance is required for buffer impacts for utilities, including stormwater outfalls.

Section 5B-121(f), Buffer Establishment in Vegetation, requires buffer establishment for development on a lot or parcel created before January 1, 2010, in accordance with Table (f)(2).

The Planning Board approves a variance for buffer impacts, including mitigation, and a buffer establishment is shown on the Chesapeake Bay Critical Area Conservation and Buffer Management Plan. An evaluation of these requirements is provided under the Variances and Chesapeake Bay Critical Area Conservation Plan sections of this resolution.

Variances

This application requires a CBCA variance for the proposed development, which has been submitted, evaluated, and is approved.

Subtitle 5B, 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 in support of a variance, and a conservation plan were stamped as received by the Planning Department on December 7, 2017. The variance approval is for minor buffer impacts for the installation of two stormdrain outfall structures associated with proposed SWM facilities.

The conservation plan includes a mitigation table demonstrating compliance with the planting requirements to off-set the buffer impacts.

Variance Analysis

Section 27-230 of the Zoning Ordinance contains findings required for all variances. A variance must be obtained to allow construction of two stormdrain outfalls in the CBCA 100-foot primary and secondary buffer. The following is an analysis of the application's conformance with these requirements.

(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 property currently slopes in a southeasterly direction and drains directly to the Anacostia River. Current SWM design criteria require best management practices, to the maximum extent practicable. The approved stormwater concept shows the use of two bioretention facilities at the top of the slopes that lead to the Anacostia River. The outfalls for these required bioretention facilities must safely discharge water to the Anacostia and must impact the buffer for that purpose.

(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 hardship of the site is its proximity to the Anacostia River and the requirement to not only treat stormwater, but to safely convey that drainage to the adjacent river at the base of the slope.

(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.

- (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 enforcement of the Critical Area Program would result in unwarranted hardship which is defined as a circumstance where without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested;**

The stormwater outfalls are required by other sections of the County Code. To require relocation of the outfalls would impose unwarranted hardship on the applicant, denying the use of portions of an already limited site area.

- (2) **A literal interpretation of the provisions of the Critical Area Program and related ordinances would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area;**

The proposed SWM for the project will comply with the critical area 10 percent pollutant reduction requirement for sites within the I-D-O Zone, as well as other applicable County and state regulations. The proposed disturbance is created by the construction of stormdrain outfall structures.

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

The granting of this variance neither creates a need for variances nor establishes a special treatment.

- (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 granted variance request is not a result of any actions by the applicant and is not caused by conditions created by neighboring properties.

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

and intent of the State Critical Area Law and the County Critical Area Program;

The goal of placing the outfalls at the toe of the slope, and within the buffer, is to reduce the potential for long-term erosion, sediment transport, and deposition within the Anacostia River. Granting the variance is in harmony and within 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 CBCA conservation plan incorporates SWM controls to minimize adverse impacts on water quality.

- (7) All fish, wildlife, and plant habitat in the designated critical areas would be protected by the development and implementation of either on-site or off-site programs;**

All fish, wildlife, and plant habitat in the designated critical areas would be protected by the approved SWM facilities and the approved addition of native planting.

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

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. The goal of the project is to enhance the functionality of existing DPW operations.

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

No growth allocation is proposed for this property.

The required findings of Section 5B-121(e) state 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.” The Planning Board approves the variance for minor buffer impacts for the installation of two stormdrain outfall structures associated with proposed SWM facilities, pursuant to the findings above.

Environmental Review

This application includes removal of existing impervious areas, and replacement with SWM and landscape areas, for a net decrease in impervious lot coverage. Currently, the site is entirely impervious (116,652 square feet). With this application, the new impervious area will be 82,985 square feet (71 percent of the site), a reduction of 33,667 square feet of impervious surface. There is no maximum for CBCA lot coverage within the I-D-O Zone.

Department of Permitting, Inspections and Enforcement (DPIE)

A copy of the approved Stormwater Management Concept Plan (11893-2017-00) and letter dated August 10, 2017 were submitted with the subject application. The project involves redevelopment and is required to meet 75 percent of water quality volume for disturbed area, and 100 percent for any new impervious area. The concept plan shows the use of micro-bioretenment and conforms to these requirements.

The 10 percent pollutant reduction calculations demonstrating that the post-development impervious area of the site will result in at least a 10 percent reduction in pollutant run-off from the site are required for projects in the I-D-O Zone. The calculations are shown on the conservation plan and have been met with a reduction in impervious lot coverage and the addition of planting. No additional information is required with regard to SWM.

Chesapeake Bay Critical Area (CBCA) Conservation Plan

The plan is appropriately labeled as a “Chesapeake Bay Critical Area Conservation and Buffer Management Plan” and contains all required information, such as existing and proposed conditions, lot coverage calculations, variance mitigation, buffer enhancement calculations, and proposed landscape planting information.

The following minor plan revisions are required prior to certification of the plan. The site statistics table shown on the cover sheet currently shows a gross tract area of 2.90 acres, a floodplain area of 0.02 acre, and a net tract area of 2.81 acres. The net tract area should be the result of the gross tract, less the floodplain. The site statistics table must be revised to reconcile the gross tract, floodplain, and net tract areas. The mitigation summary table must be revised to reflect that the proposed mitigation planting shown on the plan meets the mitigation requirement, and that no fee-in-lieu is needed. The standard notes regarding a recorded conservation agreement and a recorded conservation easement have been provided below the certification block; however, no easement is required for this conservation plan and the note regarding the easement should be removed. The property owner’s awareness certification block is located on the second sheet of the plan set and should be moved to the cover sheet. The property owner must sign the awareness block prior to plan certification.

Natural Resources Inventory Plan

The subject site has an approved Natural Resources Inventory (NRI-047-2017), dated April 10, 2017, 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, and is a recommended condition.

Chesapeake Bay Conservation Easement

A conservation easement will not be required for this site. The site does not contain any woodland that is to remain.

6. **Review Comments:** The following information is provided for informational purposes.

Community Planning—This application is consistent with Plan Prince George’s 2035 for properties within the growth boundary and within the Established Communities area. The plan is also consistent with the 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment* (Gateway Arts District Sector Plan and SMA).

Historic Preservation—The subject property is located within the Hyattsville National Register Historic District (68-010-00) and is adjacent to one Prince George’s County historic site, the Dorr House (68-077). The Dorr House is also subject to a historic property grant easement held by the Maryland-National Capital Park and Planning Commission. Evergreen landscape screening on Parcel 50 is required in order to provide adequate protective buffering for the adjacent historic site.

There are known archeological resources that will be affected by the proposed work. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low.

Urban Design—This project is not subject to Subtitle 27 of the County Code. The site is located in the Neighborhood Arts Production Character Area of the Gateway Arts District Sector Plan and SMA. Although the site is not subject to Subtitle 27 and the D-D-O Zone standards, the development should generally comply with the intent and goals of the applicable standards of the D-D-O Zone. The Planning Board recommends the addition of two shade trees in the parking lot green areas.

Prince George’s County Health Department—The Environmental Engineering/Policy Program of the Health Department has completed a health impact assessment review of the conservation plan for the City of Hyattsville DPW, and offered the following comments for consideration:

- a. No demolition/construction noise should be allowed to adversely impact activities on the adjacent properties. Indicate intent to conform to construction activity noise control requirements as specified in Subtitle 19 of the County Code.

- b. Noise can be detrimental to health with respect to hearing impairment, sleep disturbance, cardiovascular effects, psycho-physiologic effects, psychiatric symptoms, and fetal development. Sleep disturbances have been associated with a variety of health problems, such as functional impairment, medical disability, and increased use of medical services even among those with no previous health problems.
- c. During the demolition/construction of this project, no dust should be allowed to cross over property lines and impact adjacent properties. Indicate intent to conform to construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.
- d. The applicant should assure that all sources of air pollution have been registered with the Maryland Department of the Environment, Air and Radiation Management Administration. Such sources include gasoline underground storage tanks, paint spraying operations and degreasing tanks.
- e. Specify compliance with MDE–Oil Control Program requirements in reference to oil and petroleum product spills and clean up.

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 Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey, Doerner, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, February 22, 2018, in Upper Marlboro, Maryland.

Adopted by the Prince George’s County Planning Board this 15th day of March 2018.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

EMH:JJ:TA:rpg