



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2023-110

File No. CP-21004

R E S O L U T I O N

WHEREAS, Cecil Boyd is the owner of a 0.1269-acre parcel of land in the 17th Election District of Prince George's County, Maryland, and being zoned Neighborhood Activity Center (NAC) and is also within the Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zone; and

WHEREAS, on July 14, 2023, Seafood Subs & Sides, LLC filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of a 12-seat café on the ground level of an existing single-family detached dwelling; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-21004 for Seafood Subs & Sides, 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 October 19, 2023, for its review and action in accordance with Zoning Ordinance, Subtitle 27, Prince George's County Code; and

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

WHEREAS, pursuant to Section 27-1903(c) of the Zoning Ordinance, development applications submitted and accepted as complete before April 1, 2024, may be reviewed and decided in accordance with the prior Zoning Ordinance; and

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

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

WHEREAS, on October 19, 2023, 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-21004, Seafood Subs & Sides, for an arts café on the ground level of an existing single-family dwelling, with the following conditions:

1. Prior to certificate approval of Chesapeake Bay Critical Area Conservation Plan CP-21004, the applicant shall delete the proposed dimensions from the "Conservation Plan – Existing Conditions Plan" sheet.

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 the Maryland-National Capital Park and Planning Commission, and the liber/folio shall be shown below the conservation plan approval block.
3. Prior to certification of the conservation plan, the applicant shall work with the Prince George's County Department of Permitting, Inspections and Enforcement and demonstrate how the 10 percent reduction in pollutant run-off from the site will be fully met.

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:** This Chesapeake Bay Critical Area conservation plan (CP), with companion Detailed Site Plan DSP-21025 and Special Permit (SP-210002), approves a 12-seat café on the ground level of an existing single-family detached dwelling. The upper floor of the existing dwelling will remain as a dwelling unit.

2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	NAC	Prior M-U-I/D-D-O
Use(s)	Residential	Mixed
Acreage	0.1269	0.1269
Net tract area	0.1269	0.1269
Area within existing 100-year floodplain	0	0
Number of lots	1	1
Minimum lot area (square feet)	N/A	N/A
Parking spaces required*	1	4

Note: *The parking space requirement is based on dwelling units (1 space per unit) and approved seats for the café (1 space per 3 seats). Based on one dwelling unit and 12 approved seats, the requirement is 5 spaces. However, per the 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment* (sector plan) standards, 80 percent of the required parking spaces are allowed, which would lower the requirement to 4 spaces. The applicant has provided four parking spaces.

3. **Location:** The property is located at 4514 Rhode Island Avenue, in the Town of North Brentwood, Maryland, at the intersection of Rhode Island Avenue and Wallace Road. The property is within Planning Area 68 and Council District 2.
4. **Surrounding Uses:** The subject property is located at the southwest intersection of Rhode Island Avenue and Wallace Road. North and south of the subject property are vacant properties with a mix of residential and commercial uses beyond. To the east, beyond Rhode Island Avenue, are

commercial uses in the Neighborhood Activity Center (NAC) Zone. West of the subject property are residential uses in the NAC Zone, and beyond in the Residential Single-Family 65 Zone.

5. **Previous Approvals:** A Natural Resources Inventory Plan (NRI-049-13) was approved on April 4, 2013. The property is currently subject to NRI-049-13-01, which was approved on September 30, 2021. A SWM Concept Plan, 42831-2021-0, was approved on January 7, 2022. There are no other approvals for this property.
6. **Design Features:** The subject site is improved with an existing two-story, single-family detached dwelling that was constructed in the early 1900s and has a gross floor area of approximately 1,330 square feet. A portion of the property is within the Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zone. There is an existing concrete parking area that was constructed by a prior owner circa 2000, without a permit or CP.

The sector plan superimposed the Development District Overlay (D-D-O) Zone on the subject property, placing the property in the Neighborhood Arts and Production (NAP) Character Area.

Signage

The applicant included a signage detail with this DSP. The painted 4-foot by 8-foot, 32-square-foot, flat mounted plywood panel sign will be mounted to the northeast façade which faces Wallace Road. The sign's trim and color scheme will complement the existing building's trim and colors. The 32-square-foot total area conforms to the 50-square-foot maximum, as regulated by Section 27-613(c)(3)(D) of the prior Prince George's County Zoning Ordinance. No other signage is approved with this application.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Chesapeake Bay Critical Area (CBCA) Ordinance:** The site is partially located within the I-D-O Zone; therefore, the site is subject to the CBCA regulations. The purposes of the I-D-O Zone, as outlined in Section 27-548.13 of the prior Zoning Ordinance, are to accommodate existing residential, commercial, or industrial land uses within the CBCA; to promote new residential, commercial, and industrial land uses in accordance with development intensity limits designated for the I-D-O Zone in this Subtitle; to conserve and enhance fish, wildlife, and plant habitats; and to improve the quality of runoff that enters the tributary streams of the Chesapeake Bay from developed areas. The regulations concerning the impervious surface ratio, density, slopes, and other provisions for new development in the I-D-O Zone are contained in Subtitle 5B of the Prince George's County Code, as follows:

Section 5B-113. – Intense Development Overlay (I-D-O) Zones.

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

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

The CP results in a reduction of the total area of impervious surface. SWM is provided using best management practices (BMPs), including a rain garden and rain barrels. The effects of these efforts on water quality are analyzed with the 10 percent pollutant reduction worksheet included on the plans.

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

The CP utilizes BMPs and has an approved SWM Concept Plan, 42831-2021-0, which was approved on January 7, 2022, and expires on January 7, 2025.

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

- (A) Development or redevelopment projects shall use technologies as required by applicable ordinances in order to minimize adverse impacts to water quality caused by stormwater.**
- (B) In the case of redevelopment, if these technologies do not reduce pollutant loadings measured by use of the keystone pollutant method by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided. Guidance for compliance with this requirement is provided in the Critical Area 10% Rule Guidance Manual – Fall 2003 and as may be subsequently amended.**
- (C) In the case of new development, offsets shall be used if they reduce pollutant loadings by at least 10 percent of the pre-development levels. Guidance for compliance with this requirement is provided in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance – Fall 2003 and as may be subsequently amended.**
- (D) Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring, or other computation of mitigation measures. Guidance regarding offsets is provided in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance–Fall 2003.**

BMPs have been used to address water quality. However, despite an approved SWM concept plan from the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), the 10 percent pollutant reduction worksheet indicates that the pollutant removal requirement is not met through the BMPs. The worksheet shows the BMPs reduce pollution by 4.8 percent. In a footnote on the worksheet, the applicant meets the remaining 5.2 percent shortfall by the on-site planting of 5 trees and 16 shrubs. A condition is provided herein that further addresses this issue with DPIE.

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

The approved plan reduces the amount of impervious coverage. All permeability areas will be vegetated to the maximum extent possible. A Chesapeake Bay Conservation and Planting Agreement is included as a condition below, to ensure the planting and maintenance of all approved landscaping.

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

This criterion does not apply, as the property does not include public access to a shoreline or public recreational facilities.

The Planning Board approves Conservation Plan CP-21004.

8. **Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements of the prior Mixed Use–Infill (M-U-I) and D-D-O Zones and the site plan design guidelines of the Zoning Ordinance.
- a. The subject application is in conformance with the requirements of Section 27-546.17 of the prior Zoning Ordinance. Both the eating and drinking establishment without a drive-through use and the dwelling unit within a building containing a commercial use are permitted. However, the D-D-O Zone standards in the NAP Character Area require that “Cafes, for table and/or bar service of tea, coffee, other beverages and food” are permitted with a SP and require a DSP.
9. **2010 Prince George's County Landscape Manual:** The site is not subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The development district standards contained in the sector plan replace all those contained in the Landscape Manual.

10. **2010 Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance:** The site is exempt from the provisions of the Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property contains less than 10,000 square feet of woodland on-site and has no previous tree conservation plan approvals
11. **Prince George’s County Tree Canopy Coverage Ordinance:** Subtitle 25, Division 3, of the County Code requires a minimum percentage of tree canopy coverage (TCC) on projects that require a grading or building permit for more than 5,000 square feet of disturbance. Properties that are zoned M-U-I are required to provide a minimum of 10 percent of the gross tract area in TCC. According to the TCC schedule, the site is 0.1269 acre, resulting in a TCC requirement of 553 square feet. The schedule shows that the requirement will be met on-site through approved landscaping.
12. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:
 - a. **Historic Preservation**—The Planning Board reviewed and adopts the memorandum dated August 3, 2023 (Stabler to Price), stating that the subject property does not contain and is not adjacent to any designated Prince George’s County historic sites or resources.
 - b. **Community Planning**—The Planning Board reviewed and adopts the memorandum dated September 14, 2023 (Selvakumar to Price), stating that the application conforms to the goals of the sector plan and cited no issues.
 - c. **Transportation Planning**—A memorandum, dated September 18, 2023 (Ryan to Price), was provided to staff and this analysis was included in the technical staff report adopted by the Planning Board at its October 19, 2023 hearing. The Planning Board finds that the application met the criteria for a DSP, as outlined in Section 27-283 of the prior Zoning Ordinance.
 - d. **Subdivision**—The Planning Board reviewed and adopts the memorandum dated August 30, 2023 (Heath to Price), stating that the subject property is exempt from a preliminary plan of subdivision, as the property is the subject of a final plat approved prior to October 27, 1970, and the proposed development is an addition to a development in existence prior to January 1, 1990, and does not exceed 5,000 square feet of gross floor area.
 - e. **Environmental Planning**—The Planning Board reviewed and adopts the memorandum dated September 21, 2023 (Juba to Price), including the following comments regarding the subject application:

Background

The following applications and associated plans have been reviewed for the subject site:

Development Review Case Number	Associated Tree Conservation Plan or Natural Resources Inventory Number	Authority	Status	Action Date	Resolution Number
N/A	NRI-049-13-01 (NRI-EL)	Staff	Approved	9/30/2021	N/A
N/A	S-184-2021	Staff	Approved	9/21/2021	N/A
SP-210002	NA	Planning Board	Approved	10/19/2023	2020-111
DSP-21025	NA	Planning Board	Approved	10/19/2023	2023-109
CP-21004	NA	Planning Board	Approved	10/19/2023	2023-110

Approved Activity

This CP approves an arts café on the ground level of an existing single-family dwelling, with the upper floor remaining a dwelling unit.

The current zoning for the site is NAC; however, the applicant has opted to apply the zoning standards to this application that were in effect prior to April 1, 2022, for the M-U-I Zone.

A portion of the site is also mapped within the I-D-O Zone of the CBCA.

Environmental Review

Natural Resources Inventory

The subject site has an approved Natural Resource Inventory Equivalency Letter (NRI-042-2019-01) dated September 30, 2021.

Woodland Conservation (Applicable to Area Outside of CBCA Only)

The site is exempt from the provisions of the WCO because the property contains less than 10,000 square feet of woodland and has no previous tree conservation plan approvals.

Preservation of Regulated Environmental Features/Primary Management Area

For the area located outside of the CBCA only

Section 27-285(b)(4) of the prior Zoning Ordinance requires the following finding: “The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).”

No regulated environmental features (REF) exist on-site; therefore, none will be impacted by the proposed development.

Chesapeake Bay Critical Area Commission Review

No comments were received from the CBCA Commission regarding this application.

Chesapeake Bay Critical Area Conservation Plan

One site plan was submitted for the DSP, CP, and SP. The required information such as existing and approved conditions, lot coverage calculations, and approved landscape planting information was included in this set of plans. Since much of the site was previously developed without permits, the lot coverage calculations have included both the previously built but not permitted structures and all approved structures with this application to validate them.

The overall lot coverage for the site will increase; however, there is no maximum for CBCA lot coverage requirement within the I-D-O Zone. Similarly, there is also no minimum allowable lot coverage for the underlying M-U-I Zone. The lot coverage approved is 65.2 percent based on CBCA lot coverage calculations, and 52.6 percent based on Zoning Ordinance lot coverage calculations.

Ten Percent Pollution Reduction Calculations

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 CP, but demonstrate that the requirement has not been fully met with this design. The calculations on the plans show a pollution requirement of 0.095 pounds per year of total phosphorous removal; however, only 0.044 pounds per year are being approved using a rain garden and rain barrels. It was noted that DPIE did not mention the 10 percent requirement for final design on their SWM approval letter (42831-2021-00) and the calculations were not shown on the associated plans. These calculations are usually also included on the SWM concept plan or conditioned to be included on the technical SWM plan by DPIE. A condition has been included herein for the applicant to work with DPIE and demonstrate how the 10 percent reduction in pollutant run-off from the site will be fully met, prior to certification of the CP.

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

Stormwater Management

An approved SWM Concept Letter and Plan (42831-2021-00) was submitted with this application, which expires on January 7, 2025. Within the area of this application, the approved SWM concept plan shows the use of one rain garden and five rain barrels.

- f. **Prince George’s County Fire/EMS Department**—In an email dated July 17, 2023, a representative of the Fire/EMS Department offered no comments.
 - g. **Prince George’s County Department of Permitting, Inspections, and Enforcement (DPIE)**—In a memorandum dated July 18, 2023, a representative of DPIE commented that the subject property is served via public water and sewer facilities.
 - h. **Prince George’s County Police Department**—As of the writing of this resolution, the Police Department did not provide comments.
 - i. **Prince George’s County Health Department**—In a memorandum dated July 20, 2023, a representative of the Health Department offered five comments and recommendations that have been included herein by reference.
 - j. **Washington Suburban Sanitary Commission (WSSC)**—As of the writing of this resolution, WSSC did not provide comments.
 - k. **Town of North Brentwood**—As of the writing of this resolution, the Town of North Brentwood did not provide comments.
13. Based on the foregoing analysis, and as required by Section 27-285(b) of the prior Zoning Ordinance, the DSP represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the County Code, without requiring unreasonable cost and without detracting substantially from the utility of the approved development for its intended use.
14. As required by Section 27-285(b)(4), the Prince George’s County Planning Board found that the REFs on a site have been preserved and/or restored in a natural state, to the fullest extent possible, in accordance with the requirements of Section 24-130(b)(5) of the prior Prince George’s County Subdivision Regulations. No REFs exist on the subject site; therefore, this finding is not applicable.
15. **Community Feedback:** The Planning Board did not receive any community feedback or opposition regarding this application.

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 Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, October 19, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of November 2023.

Peter A. Shapiro
Chairman


By Jessica Jones
Planning Board Administrator

PAS:JJ:TP:rpg


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel

Dated 11/8/23