



PGCPB No. 13-68

File No. CP-89039-11

RESOLUTION

WHEREAS, Walter T. & Genevive J. During are the owner of a 0.46-acre parcel of land in the 5th Election District of Prince George's County, Maryland, and being zoned Rural-Residential (R-R) and Limited Development Overlay (LDO); and

WHEREAS, on March 4, 2013, Walter T. & Genevive J. During filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of constructing a 3,308-square-foot single-family detached dwelling with a garage and circular driveway on a vacant and 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-89039-11 for Tantallon on the Potomac, Lot 6, Block E, including variance request from Section 5B-114(e)(5), 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 June 6, 2013, 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 June 6, 2013, 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-89039-11, Tantallon on the Potomac, Lot 6, Block E with the following conditions:

1. Prior to certificate of approval of the conservation plan, the following revisions shall be made, or information shall be provided:
 - a. Show the correct acreage (17,291 square feet) and limits of the existing on-site woodland in accordance with the limits delineated by the qualified professional and as shown on the conservation plan stamped as received on December 21, 2013. Revise the worksheet as necessary.
 - b. Correctly delineate the limits of existing woodland on Lot 8 along the western boundary and show the limits on the plan. Revise the worksheet as necessary.

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- c. Identify and label all proposed structures on the plan consistent with the structures listed on Table B-1. The edge of pavement for the proposed driveway shall also be identified.
- d. Calculate the area of woodland clearing based on the revised off-site woodland limits on Lot 8 and show the area on the plan and in the worksheet.
- e. The final plan shall include a standard worksheet that correctly shows the total area of the on-site woodland as 17,291 square feet, the percentage of existing woodland as 86 percent, the correct area of proposed clearing, and the correct fee-in-lieu amount. Revise all other sections of the table as necessary.
- f. Revise the plan to provide afforestation in the open non-wooded area adjacent to the northeastern boundary of the site and provide an afforestation planting schedule.
- g. Revise the worksheet as necessary to account for any changes to clearing, preservation, reforestation/afforestation, mitigation, etc.
- h. Revise the driveway to remove the branched extension and show only direct access to the garage loading area.
- i. Label all woodland areas to show the square footage.
- j. Remove the 90-degree angle woodland limits in the front yard.
- k. Revise the woodland calculation worksheet for Lot 8 to show the correct woodland acreage to be cleared within the proposed off-site sewer easement.
- l. Shrubs and ornamental trees shall not be used as credit toward the woodland. Add a column on the table for "credits" for the afforestation and front yard landscape plantings as shown on the plan view.
- m. Remove the two planting details shown on the plan and add the standard detail for afforestation/reforestation plantings.
- n. Have the qualified environmental professional sign the plan based on the revised plan.
- o. Revise the block with the property owner certification with the references of the conservation plan number to read "CP-89039-11."
- p. Revise the proposed additional lot coverage and total lot coverage (existing and proposed) number for the driveway to 1,613. Revise as necessary to show the correct area for any additional revisions prior to certification.

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- q. Revise the beginning of General Note 4 as follows: "The entire 0.461 acres of this site lies within the..."
- r. Revise General Notes 6 and 11 to remove "see attached copy."
- s. Revise General Note 7 to state the source of the topography information.
- t. Revise General Note 18 as follows: "The site is not subject to the previous approved TCP2-183-90. This TCP has since expired when the Chesapeake Bay Critical Area Regulations of the Zoning Code, Section 5, became effective."

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 proposal is for the construction of a 3,308-square-foot single-family detached dwelling with a garage on a vacant and wooded property within the Chesapeake Bay Critical Area (CBCA). The approval of a conservation plan by the Planning Board is required prior to the issuance of permits in the Chesapeake Bay Critical Area (CBCA) because the approval of a variance to Subtitle 5B of the Prince George's County Code is required.
2. **Location:** The 0.46-acre property is located on the east side of Firth of Tae Drive 700 feet south of its intersection with Swan Creek Road. The property address is 12308 Firth of Tae Drive, Fort Washington.
3. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-R/L-D-O	R-R/L-D-O
Use(s)	Vacant	Residential
Acreage	.46	.46
Total Gross Floor Area (GFA)	0	3,308 sq. ft.
Areas not included in GFA		
3-car garage		(638 sq. ft)
Unfinished Basement		(1,536 sq. ft)

OTHER DEVELOPMENT DATA

	REQUIRED	APPROVED
Maximum Building Height	35 ft.	35 ft.
Maximum Lot Coverage (per R-R Zone)	25 percent	20 percent
Minimum Front Yard Setback	25 ft.	59 ft.
Minimum Side Yard Setbacks	8 ft./17ft.	18 ft./44 ft.

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4. **Surrounding Uses:** The subject property is located within the Rural-Residential (R-R) and Limited Development Overlay (LDO) Zone within the Chesapeake Bay Critical Area (CBCA) and is surrounded by identically-zoned properties within the Tantallon on the Potomac Subdivision. Swan Creek Road is located north of the subject property. A tributary of the Potomac River is located south and east of the subject property, beyond which to the east is the Tantallon Marina. The Potomac River is located approximately 0.4 miles west of the subject property.
5. **Previous Approvals:** The site was previously reviewed as part of Detailed Site Plan, SP-90076 with a Type II Tree Conservation Plan TCPH-183-90. A Chesapeake Bay Critical Area Conservation Plan, CP-89036, (Battersea on the Bay, Lot 17B) was approved by the Planning Board on December 21, 1989, and included approximately 38.6 acres of Parcel 52 of Tax Map 131. The Preliminary Plan of Subdivision 4-89176 was approved by PGCPB Resolution No. 89-652 on December 21, 1989. A limited Detailed Site Plan, DSP-90076, was approved by the Planning Board on October 18, 1990 and incorporated into the revised Conservation Plan, CP-89036-01, which was approved the same day. The subject lots were recorded by Final Plat VJ 157-36 on February 25, 1991.

Detailed Site Plan DSP-90076 was vested by the construction of residential structures on Lot 8 and Lot 9. The subject property was included in Conservation Plan CP-89039, but not in any subsequent revisions.

The approved Type II Tree Conservation Plan TCPH-183-90 for the site became invalid with the current regulations when TCP2s were no longer required for applications within the Chesapeake Bay Critical Area.

The site is subject to the current Chesapeake Bay Critical Area (CBCA) regulations in Subtitle 5B of the Prince George's County Code. This lot had a previous approval for a single-family dwelling with a driveway to an attached garage in October 1990, which was revised in August 2005. According to Section 5B-116 (g), this approval has since expired because the plan validity period is only for three years after approval. No one-year extensions were received after the three year approval time expired.

6. **Design Features:** The 0.46-acre, wooded property is located on the east side of Firth of Tae Drive. The applicant proposes to construct a two-story, brick, 3,308-square-foot, single-family detached dwelling with a hip roof. A circular driveway with an approximate radius of 50 feet with a 20-foot-wide circular planting bed at its center is proposed in the front of the lot. The driveway leads to an attached three-car-garage on the northwestern corner of the dwelling. The primary building entrance is setback into the property approximately 21 feet from the front wall of the garage.

The plan indicates that one forest stand totaling 0.39 acres (17,291 square feet) currently exists on the property. The canopy is generally dominated by American Elm, Black Locust, and Virginia

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Pine trees with an average diameter at breast height (DBH) of four to twelve inches. The applicant's plan also indicates that approximately 4,609 square feet of the existing vegetation is invasive species. Upon full development, the site plan indicates approximately 55 percent of the existing vegetation on the site will be cleared.

7. **The Chesapeake Bay Critical Area Ordinance:** The site is located within the Limited Development Overlay (L-D-O) Zone; therefore, the site is subject to the Chesapeake Bay Critical Area regulations. The purposes of the L-D-O Zone, as outlined in Section 27-548.14 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- or 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 Prince George's 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.**

The site is located within a Network Gap of the Countywide Green Infrastructure Plan. 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 Patuxent River Basin. The conservation plan has been revised to include additional woodland at the rear of the property and also along the side and front of the lot. These additional wooded areas shall be retained through the establishment of conservation easements, and will assist in the establishment of a wildlife corridor system.

- (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;**

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- (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.**

The proposed development is designed to reduce the destruction of woodland vegetation. The proposed clearing at the front of the proposed dwelling for a circular driveway has been eliminated from the proposal. Additionally, an open, nonwooded area in the northeast corner of the site shall be planted as woodlands as part of the mitigation requirement resulting from the proposed clearing.

- (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.**
- (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 County Code requires that woodland be preserved on-site to the greatest extent practicable. As a disincentive and to discourage overdevelopment of a site containing woodlands, the code requires that any on-site clearing in the L-D-O be replaced at a 1:1 ratio for woodland cleared up to 20 percent, and at a 1.5:1 ratio for any woodland cleared over 20 percent. For off-site woodland clearing, the replacement requirement is also 1.5:1 because more than 20 percent of woodland has been cleared for the development of that site (Lot 8). The proposed clearing on the plan exceeds the 20 percent threshold and the

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30 percent threshold, therefore a variance is required. See Finding 8 for additional discussion of the variance request.

Below are copies of the standard CBCA worksheet included on the plan as submitted. Revisions to the worksheets shall be provided as outlined in the body of this resolution prior to certificate of approval. The plan incorrectly indicates credit for the planting of ornamental trees and shrubs.

CBCA Developed Woodland Calculations (outside the Buffer)	
Lot 6	
Existing gross lot area (SF)	20,072
Area of existing woodland (SF)	17,291
Percent of existing woodland on-site	86%
Proposed woodland clearing (SF)	9,644
Percent of proposed woodland clearing (%)	55%
Mitigation rate required	1.5
Area of required woodland replacement (SF)	14,466
Credit for on-site planting (SF) *see planting schedule this sheet*	632
Area of mitigation requirement not met on site (SF)	13,834
Proposed fee-in-lieu (\$1.50/SF) for required mitigation not met on-site	\$20,751

CBCA Developed Woodland Calculations (outside the Buffer)	
Lot 8 (off-site clearing)	
Existing gross lot area (SF)	20,647
Proposed woodland clearing (SF)	2,038
Mitigation rate required	1.5
Area of required woodland replacement (SF)	3,057
Credit for on-site planting (SF) *see planting schedule this sheet*	0
Area of mitigation requirement not met on site (SF)	3,057
Proposed fee-in-lieu (\$1.50/SF) for required mitigation not met on-site	\$4,585

As approved with conditions, including additional woodland preservation and the elimination of a driveway extension, the Planning Board finds that developed woodlands have been preserved or restored to the greatest extent practicable.

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- (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 20,072 square feet containing 17,291 square feet of developed woodlands. These developed woodlands are 86 percent of the vegetative coverage on-site subject to the preservation requirements of the code. The applicant proposes to clear 9,644 square feet of woodlands which is 55 percent of the existing woodlands. A variance is required. For discussion of the variance request see Finding 8.

- (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**

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- (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 will be required to be executed and recorded prior to permit approval for development of the site. This is for all the required tree and shrub plantings as part of this development. Review of the Conservation and Planting Agreement falls under the purview of DPW&T; however, recordation of this document is the responsibility of the property owner.

A Conservation Easement will be required for the natural woodland that is to remain undisturbed on-site per Section 5B-114(e)(3)(B) of the County Code. This Conservation Easement is just for the subject lot to prevent a loss of on-site woodlands. A metes and bounds description must accompany the easement. Reviewing and recordation of the easement falls under the purview of DPW&T prior to the issuance of the first permit.

- (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 approve Surface Mining Permit, if applicable; and**
 - (C) Consistent with an approved Soil Conservation and Water Quality Plan, if applicable.**

The Planning Board finds that development on slopes greater than 15 percent is not proposed.

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

The Planning Board finds that in accordance with Section 5B-114 (e)(8) and Section 27-548.17(c)(2) of the County Code, the CBCA lot coverage requirement for the site is no more than 25 percent of the site. A review of the plan and Table B-1 (CBCA Lot Coverage) demonstrate that the proposed development totals 4,309 square feet of lot coverage, which is below the 25 percent requirement.

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- (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 Planning Board finds that the above provision does not apply to the subject proposal. Modification of road standards is not proposed.

8. **Required Findings for Approval of a Variance:** The applicant proposes to clear 9,644 square feet, or 55 percent, of existing woodlands on the site. According to Section 5B-114(e)(5), clearing in excess of 30 percent of a natural or developed woodland is prohibited without a variance. Section 27-230 of the Zoning Ordinance contains the following required findings to be made before a variance to Subtitle 5B can be granted.

- (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 applicant's justification is that the lot is "the only piece of real property that does not have direct access to the sewer system." While there is a sewer connection closer to the subject lot, access for an easement to connect through the adjacent lot (Lot 7) was not secured. The Planning Board finds that the clearing for the sewer connection is necessary for development. Due to the location of the sewer line, and the applicant's desire to retain gravity flow to the sewer line, the house has not been moved to the minimum 25-foot building setback line, which would have further reduced the need for woodland clearing. The Planning Board finds that the constraints of the sewer connections are significant for the site and create a condition where a variance is necessary.

- (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 Planning Board finds that at 30 percent maximum woodland clearing, development on the site would be significantly limited, which would result in exceptional hardship to the property owner. The Planning Board finds that greater conformance to the requirements of Section 5B-114(e)(5) shall be made through a reduction in the driveway and an increase in the retained woodland in that location. A reduction in the driveway will not present an undue hardship or difficulty because its primary function, to provide vehicular access to the site and to the garage, will not be lost.

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

The Planning Board finds that approval of the variance will not substantially impair the General Plan or Master Plan.

The General Plan Policy states for sites within the Developing Tier the policy is to "Preserve and enhance environmental features and green infrastructure elements." The woodlands on-site shall be enhanced by planting woodlands within the open nonwooded area of the site within the northeast corner.

This site is within a Network Gap Area of the Countywide Green Infrastructure Plan (GIP), a functional Master Plan. Network Gaps are areas critical to the connection of Regulated and Evaluation areas that are usually associated with a regulated water feature. The site contains woodland connected to a habitat corridor that leads to the Patuxent River Basin. Approval of the variance to allow clearing of the woodland will not substantially impair the goals of the GIP. This woodland connection will be made by preserving the vegetation in the rear, along the side, and in front of the site, which will meet the intent of the GIP and the CBCA Code.

- (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;**

Most adjacent lots have access to the sewer system and the applicant notes that there are high costs and proper elevation needed for proper gravity flow with this sewer connection. The Planning Board does not object to the applicant having access to the sewer system, nor clearing for access to the sewer system. It is necessary infrastructure. The original design for the subdivision and the subject Lot 6 had the sewer line crossing Lot 7, and then connecting with a sewer line in Moyer Court; however, the proposed sewer line easement was never platted.

The Planning Board determines that the location of the house is necessary for the proposed sewer connection. If the variance were not approved, the applicant would be

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unable to develop the current proposal, given the constraints with the sewer connection and the desire to retain gravity flow to the sewer system.

The Planning Board was not adequately convinced that the use of a grinder pump would effectively solve the sewer constraints in this instance, and eliminate the need for a variance for the development of the site.

- (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 Planning Board finds that the literal interpretation of the ordinance, and a strict application of the 30 percent maximum clearing requirement would deprive the applicant the ability to develop the site consistent with other homes within the Tantallon on the Potomac Subdivision that include larger gross floor areas and attached garages.

- (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 Planning Board finds that the granting of a variance for the subject application will not confer upon the applicant any special privilege, considering the variance will ameliorate the hardship associated with limited sewer access and will allow a design more consistent with other area properties.

- (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 condition relating to land or building use, either permitted or nonconforming, on any neighboring property;**

The Planning Board finds that the variance request is not based upon circumstances which are the result of actions by the applicant. The subject lot is less than one-half acre and is 86 percent wooded. Clearing for the development of the site is necessary. The Planning Board finds that the variance has been reduced to the extent practicable.

- (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;**

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

With regard to Findings 5–7, the Planning Board finds that adverse water quality impacts are not anticipated. The site has an approved Stormwater Management Concept Plan and Letter of Approval (31182-2005-01) that shows infiltration using drywells and recommends a fee of \$500 in lieu of providing on-site attenuation/quality control measures.

The general spirit and intent of the State Critical Area Law is to allow reasonable use of properties within the Critical Area while preserving, enhancing and/or restoring vegetation of existing areas of natural habitat. The subject lot at its closest point to open water is 414 feet away from tidal waters. This entire 414 feet length is comprised with developed woodlands. The entire project area is within the Network Gap area of the June 2005 *Approved Countywide Green Infrastructure Plan*. The on-site developed woodlands are part of a riparian wooded corridor around the adjacent tidal waters.

Currently, most of the property will drain to the far eastern corner where the subject property meets Lots 7 and 8. The stormwater is then conveyed across the adjacent wooded lots to sheet flow to the south and east.

As approved with conditions, the proposed clearing on the site has been reduced to the extent feasible. The plan also indicates protection of animal habitat through proposed conservation easement and afforestation.

- (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 Planning Board finds that the proposal for a residential use is in conformance with established land use policies, as addressed elsewhere in Findings 7 and 8. No adverse environmental impacts are anticipated, as clearing and disturbances will be kept to a minimum to allow reasonable development and use of the property, as explained in Findings 7 and 8.

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

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The Planning Board finds that no growth allocation is proposed for this property.

9. **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. **Environmental Planning Section**—The Planning Board has reviewed the Detailed Site Plan, DSP-90076-04 and Chesapeake Bay Critical Area Plan, CP-89039-11, stamped as received on May 16, 2013. The subject application was previously presented to the Planning Board on May 9, 2013 for plans received on March 18, 2013. The Planning Board accepted the applicants request for a continuance so that a revised set of plans could be submitted and reviewed.

The previously submitted plans proposed a circular driveway which has been removed due to the excessive woodland clearing above the 30 percent maximum allowed by Subtitle 5B. The proposed dwelling has been relocated 10-feet closer to the building restriction line so that additional woodland preservation could be provided in the rear of the lot adjacent to existing woodland.

The applicant has submitted a revised plan with a driveway to the garage loading area of a three car garage, with branched extension of the driveway direction turn around. In discussions with the applicant, he addressed that the circular drive was needed so drivers would not have to back down the driveway onto Firth of Tae Drive. A review of the plan show that the garage loading area, which contains a hammer head extension, is sufficient for turning around without having to back out on Firth of Tae Drive. The Planning Board requires that the driveway extension to the front of the dwelling be eliminated.

This revision also shows the relocation of the proposed dwelling closer to the building restriction line and closer to the west to increase the size of the developed woodlands retained on-site. The house location is now 83 feet (garage 60 feet) from the front property line. There are more woodland save areas on the east side of the house and in the front and rear of the house; however this design has resulted in paving for the garage loading area at the property line adjacent to Lo 5. The dwelling shall be moved slightly east to provide a strip of green area between the lots.

- (1) **Existing Conditions:** The conservation plan is a development plan that also serves as site's existing conditions plan which was reviewed for verification prior to the acceptance of the detailed site plan application. The plan accepted for review for this application was confirmed to show that the 20,072-square-foot site is 86 percent wooded and contains no development. The on-site woodlands have been assigned a Priority 3 rating because they are not associated with any Waters of the U.S. and also because of the presence of invasive species within the woodlands.

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A site visit was conducted in January 2013 by the Maryland-National Capital Park and Planning Commission (M-NCPPC) Planning Department staff to investigate the on-site woodlands because the applicant/owner indicated in an e-mail dated March 15, 2013, that the areas with no trees were not excluded from the computation. It appears this comment was due to the presence of understory vegetation, invasive species and/or disposed Christmas trees in the wooded area; however it should be noted that the CBCA County Code considers areas of invasive species and understory as part of developed woodlands, which is subject to the code. It is common for these areas to make up the forest floor. It was also noted that the area of disposed trees were in a platted right of way. Based on this analysis the Planning Board finds that the woodland limits and acreage (17,291 square feet) were correct as originally delineated and that the existing woodlands/developed woodlands meet the definition of developed woodlands.

The off-site woodland limits are not consistent with the plan. The proposed off-site sewer connection is located along the western boundary of proposed Lot 8. The site visit confirmed that the area was entirely wooded. The plan shall be revised to show the correct limits of the off-site woodland on Lot 8 where the sewer connection is proposed.

- (2) **Plan Preparation:** A number of revisions are recommended to the plan prior to certificate of approval.
- b. **Permit Review**—The Permit Review Section provided an evaluation of the subject detailed site plan, and the Planning Board adopts the following:
 - (1) All plan revisions not previously addressed by the applicant shall be provided prior to signature approval of the detailed site plan.
 - (2) Per Section 27-442 of the Zoning Ordinance, the applicant shall provide a house template demonstrating the dimensions of the structure and dimensions of any and all bump-outs. If the front stoop has a roof then the plan shall include its dimensions and count this area towards lot coverage calculation. The plan shall also include the building height, number car garage, setbacks and distance of dwelling to each property line and right-of-way from the furthest bump-out. The plan shall identify and provide dimensions of the deck at the rear.
- c. **Historic Preservation**—The Planning Board finds that the subject application will have no effect on identified Historic Sites, Resources, or Districts.
- d. **Archaeology**—The Planning Board finds that a Phase I archeological survey is not required on the above-referenced 0.46-acre property located at 12308 Firth of Tae Drive in Fort Washington, Maryland. The application proposes a 3,308-square-foot single-family residence located in the Chesapeake Bay Critical Area. A search of current and historic

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photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. A 1968 aerial photograph indicates the property was graded at that time. This proposal will not impact any known historic sites, historic resources, documented properties or archeological sites.

- e. **Critical Area Commission**—In memoranda dated January 24, 2013 and April 25, 2013 the State of Maryland Critical Area Commission provided comment on the subject conservation plan. The Critical Area Commission indicated that clearing in excess of 30 percent of natural or developed woodland is prohibited without a variance. Furthermore the Critical Area Commission requested that the applicant can make the following changes to the proposed plans in order to minimize and possibly eliminate the need for the requested tree clearing variance.
- 1) It is this office's understanding that with installation of a sewer pump, adequate sewer line connection can be achieved while allowing the proposed dwelling to be located closer to road frontage. By locating the dwelling closer to the road, a significant reduction in tree clearing can be achieved by minimizing the length of the driveway necessary to reach the house as well as significantly reducing the extent of tree clearing required for construction of the dwelling.
 - 2) The proposed garage could be eliminated or minimized in size since it is this office's position that a garage is not necessary on properties with such environmental constraints.
 - 3) The proposed circular driveway requires an excessive amount of tree clearing and lot coverage in comparison with more standard linear driveways, much like the ones that adequately serve neighboring properties.

The Planning Board finds that the revisions shown on the plan, which include the elimination of the circular driveway, meet the requirements for approval of a tree removal variance within the CBCA.

- f. **Washington Suburban Sanitary Commission (WSSC)**—In comments dated January 4, 2013, WSSC provided an evaluation of the subject proposal, summarized as follows:
- (1) The Water House Connection (WHC) shown to Swan Creek Road will probably not be approved because a WHC can be made to Firth of Tae Drive. Show the WHC to Firth of Tae Dr.
 - (2) The proposed alignment for the Sewer House Connection (SHC) will require a revised non-abutting connection review from WSSC. The previously approved non-abutting connection was for a different alignment connecting to Moyer Ct.

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- (3) Align service connections to avoid environmental, storm water management facilities, ESD, devices, other utilities, landscaping, tree boxes and structures or paving impacts for future maintenance.
- (4) If elevations do not allow a gravity sewer connection, an ejector or grinder pump and pressure sewer connection will be required for sewer service.

The site plan shows water and sewer connections to Swan Creek Road. The Planning Board adopts the following reasons for this connection in the location shown on the DSP: (1) the easement cannot be secured with property owner of Lot 7; (2) the cost to construct the short sewer extension line from its terminus at Moyer Ct. and Firth of Tae Dr. to serve the property is cost prohibitive to the applicant; and (3) the owner of 1108 Swan Creek Road has signed the easement that is pending registration.

The Planning Board also finds that the final decision for the location of the sewer connection is under the jurisdiction of WSSC.

- g. **The Department of Public Works and Transportation (DPW&T)**—In comments dated January 7, 2013, DPW&T provided an evaluation of the subject proposal, summarized as follows:

- (1) The proposed site development is consistent with the approved Stormwater Concept and Technical Plan 31182-2005-01 dated October 1, 2012.
- (2) The plantings in the conservation area must be bonded and the fee-in-lieu must be paid prior to permit issuance. The plans should be revised to show any proposed mitigation planting on the lot and off site mitigation plan details.
- (3) The Conservation Easement. Conservation Planting Agreements must be recorded prior to permit issuance.

- h. **Prince George's County Health Department**—In a memorandum dated January 4, 2013, (Wise to Fields), the Health Department stated that the Environmental Engineering Program of the Prince George's County Health Department had completed a health impact assessment review of the subject DSP and has no comments or recommendations.

- 10. As required by Section 27-285(b)(4) of the Zoning Ordinance, the Planning Board should also find that the regulated environmental features on a site have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24-130(b)(5) of the Subdivision Regulations. The site contains no regulated environmental features; therefore, this finding is not applicable.

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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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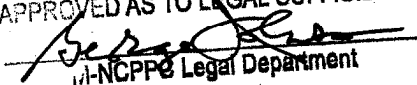
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Bailey and Hewlett voting in favor of the motion, and with Commissioner Geraldo opposing the motion at its regular meeting held on Thursday, June 6, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of June 2013.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:MF:arj

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC Legal Department
Date 6/19/13