

R E S O L U T I O N

WHEREAS, Chris Underwood is the owner of a 1.32-acre parcel of land in the 5th Election District of Prince George's County, Maryland, and being zoned Rural Residential/Limited Development Overlay (R-R/L-D-O); and

WHEREAS, on April 4, 2018, Chris Underwood filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of constructing a 3,600-square-foot single-family detached dwelling with a garage on a vacant and partially-wooded property within the Chesapeake Bay Critical Area (CBCA); and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-89039-15 for Tantallon on the Potomac, Lot 12, Block 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 November 8, 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 November 8, 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 Conservation Plan CP-89039-15, Tantallon on the Potomac, Lot 12, Block E with the following conditions:

1. Prior to certification, Note 1 of the Chesapeake Bay Critical Area (CBCA) general notes on the conservation plan shall be revised to remove the word "formerly" and spell out CBCA to "Chesapeake Bay Critical Area."
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 Prince George's County Department of Permitting, Inspections and Enforcement and the liber/folio shall be shown above the site plan approval block in the following note: The Chesapeake Bay Conservation and Planting Agreement for this property is found in Liber____/folio____.
3. Prior to certification of the conservation plan, a conservation easement for all developed woodland that is approved to remain on-site (as preservation), as shown on Conservation Plan CP-89039-15, shall be recorded among the Prince George's County Land Records. The easement document shall be reviewed by the County prior to recordation. The liber/folio shall be shown

above the site plan approval block in the following note: The conservation easement for this property is found in Liber ____/folio ____.

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

1. **Request:** The proposal is for the construction of a 3,600-square-foot single-family detached dwelling with a garage on a vacant and partially-wooded property within the Chesapeake Bay Critical Area (CBCA). The conservation plan (CP) was originally accepted as a limited minor amendment for Planning Director level review; however, as allowed by Prince George's County Code Section 5B-116(e), a citizen requested a public hearing. The associated Detailed Site Plan DSP-90076-07 was approved by the Planning Board on November 8, 2018.
2. **Location:** The 1.32-acre property is located approximately 300 feet east of Firth of Tae Drive on Moyer Court, approximately 1,025 feet south of Swan Creek Road. The property address is 700 Moyer Court, Fort Washington, Maryland 20744.

3. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-R/L-D-O	R-R/L-D-O
Use(s)	Vacant	Residential
Acreage	1.32	1.32
Total Gross Floor Area (GFA)	0	3,600 sq. ft.
Areas not included in GFA:		
Two-Car Garage	0	420 sq. ft.
Unfinished Basement	0	2,024 sq. ft.
Rear Deck (Uncovered)	0	160 sq. ft.

OTHER DEVELOPMENT DATA

	PERMITTED	APPROVED
Maximum Building Height	35 feet	29 feet
Maximum Lot Coverage (per R-R Zone)	25 percent	15 percent
Minimum Front Yard Setback	25 feet	25 feet
Minimum Side Yard Setbacks	8 feet/17feet	14 feet/19 feet

4. **Surrounding Uses:** The subject property is located within the Rural Residential (R-R) and Limited Development Overlay (L-D-O) Zone within the CBCA and is surrounded by identically-zoned properties within the Tantallon on the Potomac Subdivision. Swan Creek, a tributary of the Potomac River, is located east of the subject property, beyond which to the east is the Tantallon Marina.

5. **Previous Approvals:** Preliminary Plan of Subdivision (PPS) 4-89176, Tantallon on the Potomac, subdividing 39.2 acres into 12 lots, was approved on December 21, 1989, with eight conditions. Condition 8 requires review of architecture by the Planning Board or its designee prior to building permit. The site was previously reviewed as part of Detailed Site Plan SP-90076 with a Type II Tree Conservation Plan (TCP II-183-90). A CBCA 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. 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. This DSP approval included a single-family dwelling with driveway and garage on the subject lot. Multiple DSP and CP amendments have been approved by both the Planning Director and Planning Board subsequently, but none included this lot.

The subdivision was 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 Lots 8 and 9. The subject property was included in Conservation Plan CP-89039, but not in any subsequent revisions.

The approved Type II Tree Conservation Plan (TCP II-183-90) for the site became invalid with the current regulations when TCP IIs were no longer required for applications within the CBCA.

6. **Design Features:** The 1.32-acre wooded property is located on Moyer Drive, approximately 300 feet east of Firth of Tae Drive on Moyer Court, approximately 1,025 feet south of Swan Creek Road. The lot bearings and distances are shown on the site plan. The proposed site plan meets the requirements of the Prince George's County Zoning Ordinance for development in the R-R Zone, specifically regarding lot coverage and setbacks. The site plan accurately illustrates the grading of the lot.

The applicant proposes to construct a two-story, cement plaster and stone veneer, 3,600-square-foot, single-family detached dwelling with a hip roof. A driveway off the cul-de-sac is proposed to lead to an attached two-car-garage on the front of the dwelling. No regulated environmental features or buffers will be impacted for the construction of the dwelling, but a six-foot, natural material walkway will be constructed within the 100-foot primary buffer. Access to the water does not require a variance for buffer impacts. The proposed structure and architecture are suitable to the surrounding properties. There are no other specific architectural design guidelines applicable.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Chesapeake Bay Critical Area (CBCA) Ordinance:** The site is located within the L-D-O Zone; therefore, the site is subject to the CBCA regulations. The purposes of the L-D-O Zone, as outlined in Section 27-548.14 of the Zoning Ordinance are to: maintain or, if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay; maintain existing areas of natural habitat; and accommodate additional low- 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 developed woodlands on-site are all proposed to be preserved. This property contains no specimen trees and the woodlands on the subject site are connected to existing tracts of connected woodland on developed lots that consist of a habitat corridor leading to the open waters associated with the main channel of the Potomac River Basin.

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

Section 5B-114(e)(2) requires development activities to be designed and implemented to minimize clearing, protect the remaining woodland, and mitigate for losses. The proposed development is designed to meet this requirement, as no woodland is proposed to be cut or cleared.

The maximum CBCA lot coverage for the subject lot is 15 percent and the proposed development proposes 5.5 percent. The proposed dwelling area is located within an open area located between the on-site sewer line and Moyer Court. The clearing on-site and man-made steep slopes for the pad area occurred when the on-site sewer line and Moyer Court (cul-de-sac) were being constructed and was accounted for on CP-89039. No developed woodland will be impacted as part of this application.

- (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. The developed woodlands have been preserved or restored to the greatest extent practicable, as no clearing or cutting are proposed with this application.

- (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 57,540 square feet containing 38,333 square feet of developed woodlands. These developed woodlands are 67 percent of the vegetative coverage on-site subject to the preservation requirements of the County Code. The applicant is not proposing to clear any woodlands.

- (6) In addition, applicants shall adhere to the following criteria for forest and woodland development:**

- (A) At time of permit issuance, the permittee shall post a bond with DPW&T in an amount equivalent to the cost of completion of the planting requirements for the L-D-O Zone;**
- (B) Woodland which have been cleared before obtaining a grading permit or that exceed the maximum area allowed in subsection (3) above shall be replanted at the rate specified in subsection 5B-109(j)(3)(A);**
- (C) If the areal extent of the site limits the application of the reforestation standards in this section, alternative provisions or reforestation guidelines may be permitted in accordance with Section 5B-119 Woodland Protection and Planting of this Subtitle. Alternative provisions must conserve, enhance, or increase the natural and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions or use of an off-site conservation bank if the provisions are adequate to ensure the restoration or establishment of the required woodland area;**
- (D) If less than 15% natural or developed woodland exists on the proposed development site, the site shall be planted to provide a natural or developed woodland cover of at least fifteen percent (15%);**
- (E) All forests designated on a Conservation Plan shall be maintained to the extent practicable, through conservation easements;**
- (F) The applicant shall designate, subject to the approval of the County, a new forest area on a part of the site not forested; and**
- (G) All forests designated on a Conservation Plan shall be maintained, and to the extent practicable protected through conservation easements.**

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

A conservation easement will be required for the natural woodland that is to remain undisturbed on-site per Section 5B-114(e)(3)(B). This conservation easement is solely for the subject lot to prevent a loss of on-site woodlands. A metes and bounds description must accompany the easement.

- (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.**

Development on slopes greater than 15 percent is not proposed. The proposed mulch path from the top of the home site area to the water's edge will impact vegetation within the 100-foot critical area buffer and the secondary buffer. No developed woodland clearing is proposed for this path. This path should meander to the water's edge, with selective single trees removed to gain access to the water. The developed woodland in this area is fairly open. A buffer management plan for the path has been incorporated with the CP. The CP shows the proposed six-foot-wide path alignment from the house to the water's edge. The path will not have any structural material, only wood mulch placed down on the exposed soil for a walking base. During the layout of the path, tree removal will be avoided. If a tree is proposed to be removed, the Prince George's County Department of Permitting, Inspections and Enforcement will be notified, and trees will be replaced at a 1:1 ratio with native tree replacements. A note stating this has been placed on the CP.

No buffer mitigation is required for trail impacts; however, Section 5B-121(f)(2) requires the buffer to be fully established for new development on a vacant lot. The buffer is currently fully wooded, and no clearing is proposed, therefore, the full buffer establishment requirement has been met.

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

In accordance with Section 5B-114(e)(8) and Section 27-548.17(c)(2) of the County Code, the CBCA lot coverage is limited to no more than 15 percent of the site. A review of the plan and Table B-1 (CBCA Lot Coverage) demonstrate that the proposed development proposes 3,190 square feet of lot coverage, which is below the 15 percent requirement.

- (9) **Conservation plans, and associated development plans may propose modifications in road standards on a case-by-case basis to reduce potential**

impacts to the site, reduce total lot coverage in the Critical Area, and limit impacts to Critical Area resources, where the reduced standards do not significantly affect safety.

The above provision does not apply to the subject proposal. Modification of road standards is not proposed.

8. **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. **Critical Area Commission (CAC)**—In an e-mail dated April 17, 2018 (Roberts to Summerlin), CAC staff stated that the applicant will meet critical area requirements.
 - b. **Environmental Planning**—The Planning Board found that the site is bounded to the southeast by Swan Creek and contains critical area, 100-foot primary, expanded secondary buffer areas, FEMA 100-year floodplain, nontidal wetlands, and steep slopes. The Web Soil Survey indicates that the site is comprised of Sassafras-Croom complex and Sassafras and Croom soils soil types. According to available information, Marlboro clay and Christiana clays do not occur on or in the vicinity of this site.

The on-site stormwater sheet flows across the site towards Swan Creek. A copy of the approved Stormwater Management (SWM) Concept Plan and Letter (41211-2017-00) dated October 2, 2017, were submitted with the subject application. The SWM concept plan shows stormwater to be directed from the roof top to three drywells and a porous paver driveway. According to the approval letter, the site will be required to pay a stormwater management fee of \$250.00 in lieu of providing on-site attenuation/ quality control measures. The application is consistent with the SWM concept plan.

The site has frontage on Moyer Court, which is not identified as a specific designation within the 2009 *Approved Countywide Master Plan of Transportation*. No scenic or historic roads are affected by this proposal. There are no significant nearby transportation related noise sources and the proposed improvements are not expected to be a noise generator.

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, Doerner, and Hewlett voting in favor of the motion, and with Commissioner Bailey absent at its regular meeting held on Thursday, November 8, 2018, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 29th day of November 2018.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

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